




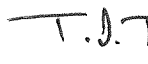
City of Loma Linda Official Report

Floyd Petersen, Mayor pro tempore
Robert Christman, Councilmember
Stan Brauer, Councilmember
Robert Ziprick, Councilmember
Charles Umeda, Councilmember

COUNCIL AGENDA: May 10, 2005

TO: City Council

VIA: Dennis R. Hallaway, City Manager 

FROM: T. Jarb Thaipejr, Public Works Director/City Engineer 

SUBJECT: Authorizing the Acceptance of a New Public Road Crossing Overpass Agreement with Union Pacific Railroad (UPRR)

RECOMMENDATION

It is recommended that the City Council authorize the acceptance of a new Public Road Crossing Overpass agreement with UPRR and authorize the City Manager and/or Public Works Director to execute the agreement.

BACKGROUND

Staff has been working with UPRR for approval to widen the Mountain View Avenue Bridge over their right-of-way. The UPRR has requested a new overpass agreement with the City as a condition of their approval. They have provided an agreement between UPRR and the City for this purpose. The City Attorney has reviewed and approved the agreement.

ANALYSIS

None.

ENVIRONMENTAL

None.

FINANCIAL IMPACT

UPRR is requesting \$13,044.00 for processing and executing the agreement. Funding for this project has been budgeted in Account No. 28-3300-8873.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOMA LINDA, CALIFORNIA, AUTHORIZING THE MAYOR OR MAYOR PRO TEMPORE TO EXECUTE FOR AND ON BEHALF OF THE CITY AN AGREEMENT BETWEEN THE UNION PACIFIC RAILROAD AND THE CITY OF LOMA LINDA

WHEREAS, the City of Loma Linda desires to widen the Mountain View Overcrossing on the east side of Mountain View Avenue; and

WHEREAS, the widening of the Overcrossing within the Railroad's facilities on Mt. View Avenue is necessary to improve traffic flow and for the health, safety and welfare of not only the citizens but also the many visitors to Loma Linda;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Loma Linda that the Agreement dated as of _____ between the Union Pacific Railroad and the City, a copy of which is attached hereto as Exhibit "A", is hereby approved, and the Mayor or Mayor pro tempore is hereby authorized and directed to execute and deliver said Agreement for and in the name and on behalf of the City.

The Mayor or in the absence of the Mayor the Mayor pro tempore, with the advice and consent of the City Attorney, is authorized to approve any additions to or changes in the form of said Agreement deemed necessary or advisable, approval of such additions or changes to be conclusively evidenced by execution by the Mayor or Mayor pro tempore.

The Mayor or Mayor pro tempore, with the advice and consent of the City Attorney, is further authorized to execute such other documents or take such other actions as may be deemed necessary or appropriate to carry out the purpose and intent of the Agreement in cooperation with the implementation of the Project.

PASSED, APPROVED AND ADOPTED this 10th day of May 2005 by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Mayor

ATTEST:

Pamela Byrnes-O'Camb, City Clerk

EXISTING PUBLIC ROAD CROSSING OVERPASS AGREEMENT

BETWEEN

UNION PACIFIC RAILROAD COMPANY

AND (THE)

CITY OF LOMA LINDA

COVERING THE

RECONSTRUCTION AND WIDENING OF THE EXISTING
MOUNTAIN VIEW AVENUE OVERPASS GRADE SEPARATION
PUBLIC ROAD CROSSING

AT

RAILROAD MILE POST 543.60 – YUMA SUBDIVISION
DOT No.: 747 172Y

AT OR NEAR

LOMA LINDA,
SAN BERNARDINO COUNTY,
CALIFORNIA

Railroad Original



Agreement Number _____

EXISTING PUBLIC ROAD CROSSING OVERPASS AGREEMENT

Mountain View Avenue – DOT No.: 747 172Y
Mile Post 543.60 – Yuma Subdivision
Loma Linda, San Bernardino County, California

THIS AGREEMENT is made and entered into as of the _____ day of _____, 200__, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, to be addressed at Real Estate Department, 1400 Douglas Street, Mail Stop 1690, Omaha, Nebraska 68179-1690 (the "Railroad") and **CITY OF LOMA LINDA**, a(n) California municipal corporation, to be addressed at 25541 Barton Road, Loma Linda, CA 92354-3160 (the "Political Body"),

RECITALS:

The Political Body desires to undertake as its project (the "Project") the reconstruction and widening of the existing grade separated overpass structure (the "Structure") that carries vehicular traffic traversing on Mountain View Avenue over Railroad's track(s) at Railroad's Mile Post 543.60, DOT No. 747 172Y, on it's Yuma Subdivision in or near Loma Linda, San Bernardino County, California (the "Crossing Area") as the Crossing Area is generally shown on the Railroad's location print marked **Exhibit A**, attached hereto and hereby made a part hereof.

The Political Body now desires to undertake as its project (the "Project") the reconstruction and widening of the existing structure. The structure, as reconstructed and widened is hereinafter the "Structure". The Political Body's type, size and location prints of the Structure are marked **Exhibit A-1**, attached hereto and hereby made a part hereof.

The right of way presently utilized by the Political Body for the existing structure is not sufficient to allow for the reconstruction and widening of the structure constructed under the Original Agreement. Therefore, under this Agreement, the Railroad will be granting an additional right of way right to the Political Body to facilitate the reconstruction and widening of the structure. The portion of Railroad's property that Political Body needs a right to use in connection with the Structure (including the right of way area covered under the Original Agreement) is shown on the print marked **Exhibit A-2** and also described in the legal description marked **Exhibit A-3**, with each exhibit being attached hereto and hereby made a part hereof (the "Crossing Area").

The Railroad and the Political Body are entering into this Agreement to cover the above.

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

ARTICLE 1 - EXHIBITS B, B-1 AND D.

The general terms and conditions marked **Exhibit B**, the Contractor's insurance requirements marked **Exhibit B-1**, and the Railroad's minimum overpass construction standards marked **Exhibit C**, are attached hereto and hereby made a part hereof.

ARTICLE 2- RAILROAD GRANTS RIGHT.

For and in consideration in the sum of **THIRTEEN THOUSAND FOURTY-FOUR DOLLARS (\$13,044.00)** to be paid by the Political Body to the Railroad upon the execution and delivery of this Agreement and in further consideration of the Political Body's agreement to perform and abide by the terms of this Agreement including all exhibits, the Railroad hereby grants to the Political Body the right to establish or reestablish, construct or reconstruct, maintain, repair and renew the Structure over and across the Crossing Area.

ARTICLE 3 - DEFINITION OF CONTRACTOR

For purposes of this Agreement the term "Contractor" shall mean the contractor or contractors hired by the Political Body to perform any Project work on any portion of the Railroad's property and shall also include the contractor's subcontractors and the contractor's and subcontractor's respective employees, officers and agents.

ARTICLE 4 - CONTRACTOR'S RIGHT OF ENTRY AGREEMENT - INSURANCE

A. If the Political Body will be hiring a Contractor to perform any work involving the Project (including initial construction and any subsequent relocation or maintenance and repair work), the Political Body shall require the Contractor to:

- execute the Railroad's then current Contractor's Right of Entry Agreement
- obtain the then current insurance required in the Contractor's Right of Entry Agreement; and
- provide such insurance policies, certificates, binders and/or endorsements to the Railroad before allowing any Contractor to commence any work in the Crossing Area or on any other Railroad property. The Railroad's current insurance requirements are described in **Exhibit B-1**, attached hereto and hereby made a part hereof.

B. The Railroad's current Contractor's Right of Entry Agreement is marked **Exhibit D**, attached hereto and hereby made a part hereof. The Political Body confirms that it will inform its Contractor that it is required to execute such form of agreement and obtain the required insurance before commencing any work on any Railroad property. Under no circumstances will the Contractor be allowed on the Railroad's property without first executing the Railroad's Contractor's Right of Entry Agreement and obtaining the insurance set forth therein and also providing to the Railroad the insurance policies, binders, certificates and/or endorsements described therein.



C. All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to:

Senior Manager - Contracts
Union Pacific Railroad Company
Real Estate Department
1400 Douglas Street, Mail Stop 1690
Omaha, NE 68179-1690
UPRR Folder No. 2308-74

D. If the Political Body's own employees will be performing any of the Project work, the Political Body may self-insure all or a portion of the insurance coverage subject to the Railroad's prior review and approval.

ARTICLE 5 - FEDERAL AID POLICY GUIDE

A. If the Political Body will be receiving any federal funding for the Project, the current rules, regulations and provisions of the Federal Aid Policy Guide as contained in 23 CFR 140, Subpart I and 23 CFR 646, Subparts A and B are incorporated into this Agreement by reference. All construction work by the Political Body and Contractor shall be performed, and any reimbursement to the Railroad for work it performs, shall be made in accordance with the Federal Aid Policy Guide.

B. As provided in 23 CFR 646.210(b)(2), the Project is of no ascertainable benefit to the Railroad and the Railroad shall not be obligated to pay or contribute to any Project costs.

ARTICLE 6 - WORK TO BE PERFORMED BY THE RAILROAD

The Political Body agrees to reimburse the Railroad for one hundred percent (100%) of all actual costs incurred by the Railroad in connection with the Project including, but not limited to, actual costs of preliminary engineering review, construction inspection, procurement of materials, equipment rental, manpower and deliveries to the job site and all of the Railroad's normal and customary additives (which shall include direct and indirect overhead costs) associated therewith.

ARTICLE 7 - PLANS

A. The Political Body, at its expense, shall prepare, or cause to be prepared by others, the detailed plans and specifications and submit such plans and specifications to the Railroad's Assistant Vice President Engineering – Design, or his authorized representative, for review and approval. The plans and specifications shall include all appurtenances, associated drainage, shoring, sheeting and excavations for bents and/or abutments next to or adjacent to the Railroad's tracks and, if applicable, all demolition and removal plans for the existing structure.

B. The final one hundred percent (100%) completed plans that are approved in writing by the Railroad's Assistant Vice President Engineering – Design, or his authorized representative, are hereinafter referred to as the "Plans". The Plans are hereby made a part of this Agreement by



reference.

C. No changes in the Plans shall be made unless the Railroad has consented to such changes in writing.

D. Upon completion of the Structure, the Political Body, at its expense, shall furnish to the Railroad two (2) sets of reproducible "as constructed" Plans of the Structure.

E. Notwithstanding the Railroad's approval of the Plans, the Railroad shall not be responsible for the design, details, permitting or construction of the Structure.

ARTICLE 8 - THE RAILROAD'S SPECIFICATIONS

The Political Body, at its expense, shall ensure that the Contractor shall comply with all of the terms and conditions contained in the Railroad's Minimum Requirements that are described in **Exhibit C** and other special guidelines that the Railroad may provide to the Political Body for this Project.

ARTICLE 9 - EFFECTIVE DATE; TERM; TERMINATION.

A. This Agreement shall become effective as of the date first herein written, or the date work commences on the Project, whichever is earlier, and shall continue in full force and effect for as long as the Structure remains on the Railroad's property.

B. The Railroad, if it so elects, may terminate this Agreement effective upon delivery of written notice to the Political Body in the event the Political Body does not commence construction on the portion of the Project located on the Railroad's property within twelve (12) months from the date of this Agreement, or from the date that the Railroad has executed this Agreement and returned it to the Political Body for its execution, whichever is applicable.

C. If the Agreement is terminated as provided above, or for any other reason, the Political Body shall pay to the Railroad all actual costs incurred by the Railroad in connection with the Project up to the date of termination, including, without limitation, all actual costs incurred by the Railroad in connection with reviewing any preliminary or final Project Plans.

ARTICLE 10- CONDITIONS TO BE MET BEFORE POLITICAL BODY CAN COMMENCE WORK.

Neither the Political Body nor the Contractor may commence any work within the Crossing Area or on any other Railroad property until:

- (i) The Railroad and Political Body have executed this Agreement.
- (ii) The Railroad has provided to the Political Body the Railroad's written approval of the Plans.



(iii) Each Contractor has executed Railroad's Contractor's Right of Entry Agreement and has obtained and/or provided to the Railroad the insurance policies, certificates, binders, and/or endorsements set forth in the Contractor's Right of Entry Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in duplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY
(Federal Tax ID #94-6001323)

By _____
GREGORY L. PINKER
Director Contracts

ATTEST:

CITY OF LOMA LINDA

_____ By _____

Title: _____

(Seal)

Pursuant to Resolution/Order No. _____
dated _____, 200____,
hereto attached.

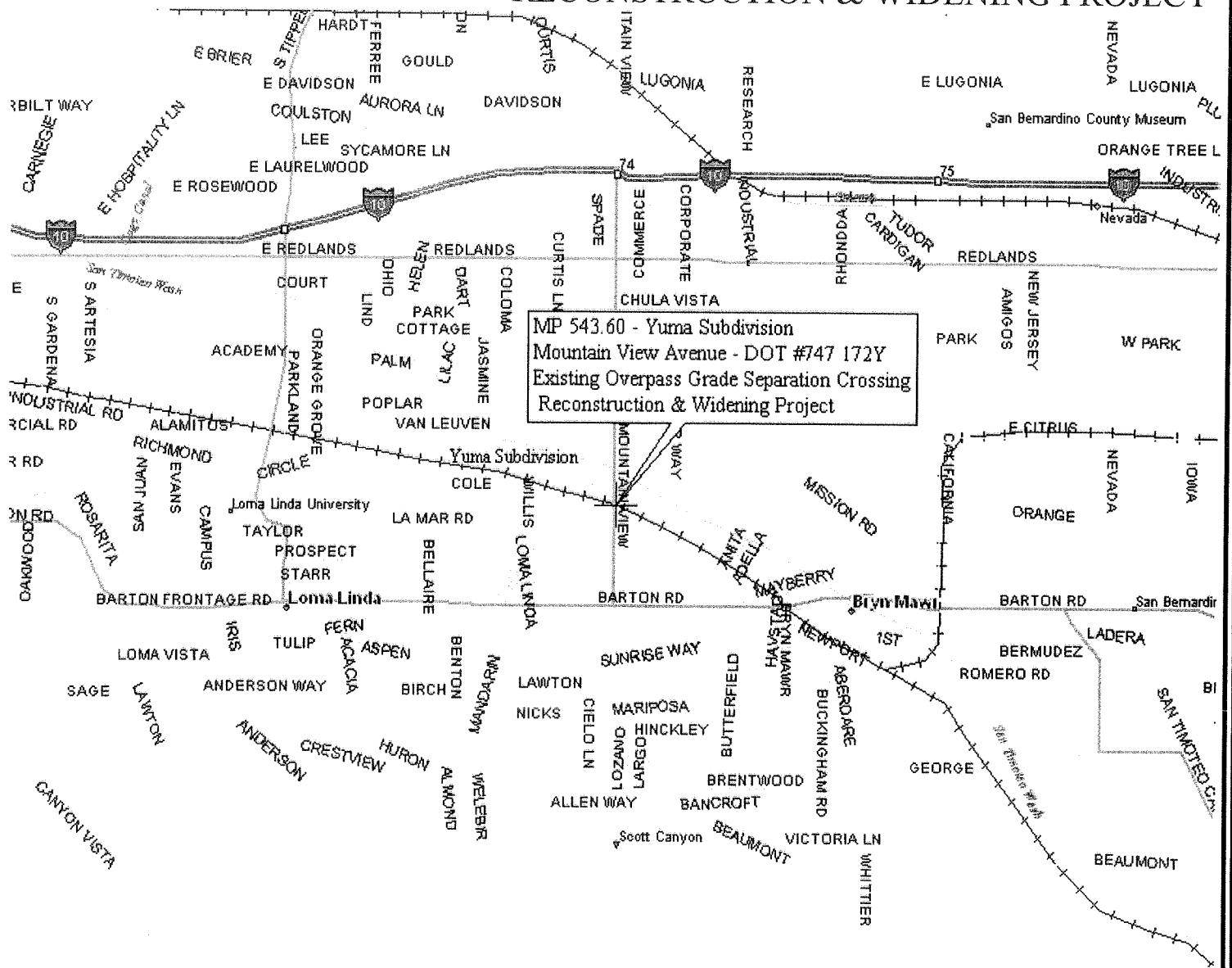


EXHIBIT A

To Existing Public Road Crossing Overpass Agreement

Cover Sheet for the Railroad's Location Print
(See Recital)

LOCATION OF AN EXISTING AT-GRADE PUBLIC ROAD CROSSING RECONSTRUCTION & WIDENING PROJECT



MP 543.60 - Yuma Subdivision
Mountain View Avenue - DOT #747 172Y
Existing Overpass Grade Separation Crossing
Reconstruction & Widening Project

©1990 DeLorme Street Atlas, Inc.

RAILROAD WORK TO BE PERFORMED:

1. Flagging.

EXHIBIT "A" UNION PACIFIC RAILROAD COMPANY

YUMA SUBDIVISION
MILE POST 543.60
GPS: N 34° 03.170', W 117° 14.621'
LOMA LINDA, SAN BERNARDINO CO., CA.

Illustrative print showing location of an existing at-grade public road crossing reconstruction and widening project with the

CITY OF LOMA LINDA.

Folder No. 2308-74

Date: March 18, 2005

WARNING

IN ALL OCCASIONS, U.P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE. PHONE: 1-(800) 336-9193



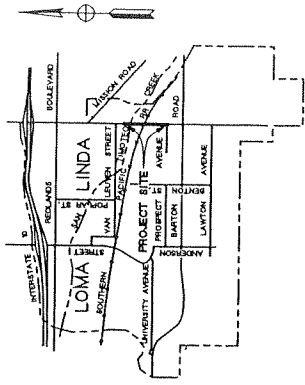
EXHIBIT A-1

To Existing Public Road Crossing Overpass Agreement

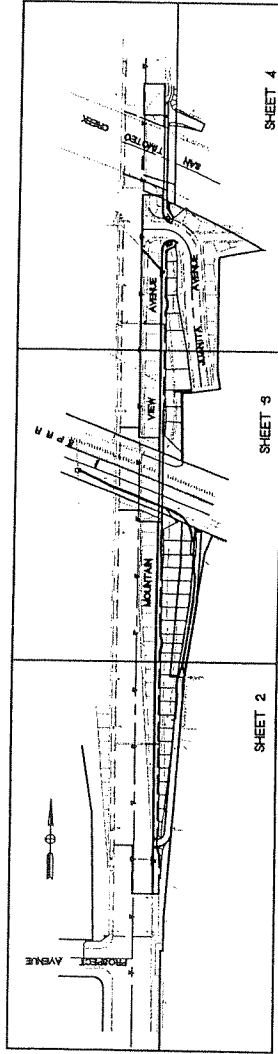
Cover Sheet for the Political Body's Location & Detailed
Structure Prints
(See Recital)

CITY OF LOMA LINDA

CONSTRUCTION PLANS FOR MOUNTAIN VIEW AVENUE GRADE SEPARATION WIDENING (BETWEEN PROSPECT AVENUE AND VAN LEUVEN STREET)



VICINITY MAP
NO SCALE



INDEX MAP
1" = 100'

DRAWING INDEX

- | SHEET NO. | TITLE |
|-----------|--|
| 1. | TITLE SHEET |
| 2. | STREET PLAN & PROFILE NO. 1 |
| 3. | STREET PLAN & PROFILE NO. 2 |
| 4. | STREET PLAN & PROFILE NO. 3 |
| 5. | DRAINAGE LAYOUT, SECTIONS & DETAILS |
| 6. | DRAINAGE TYPICAL SECTIONS |
| 7. | DRAINAGE DETAILS |
| 8. | STREET TYPICAL SECTIONS |
| 9. | WATER LINE RELOCATION NO. 1 |
| 10. | WATER LINE RELOCATION NO. 2 |
| 11. | WATER LINE RELOCATION NO. 3 |
| 12. | STREET LIGHT & STRIPING PLAN |
| 13. | PEDESTRIAN ACCESS PLAN & PROFILE |
| 14. | PEDESTRIAN UNDERCROSSING LIGHTING 1 |
| 15. | PEDESTRIAN UNDERCROSSING LIGHTING 2 |
| 16. | RETAINING WALL PLAN & DETAILS |
| 17. | MSE WALL PLAN & ELEVATION |
| 18. | MSE WALL SECTION & DETAILS |
| 19. | MECHANICALLY STABILIZED EMBANKMENT DETAILS NO. 1 |
| 20. | MECHANICALLY STABILIZED EMBANKMENT DETAILS NO. 2 |
| 21. | MECHANICALLY STABILIZED EMBANKMENT DETAILS NO. 3 |
| 22. | MECHANICALLY STABILIZED EMBANKMENT DETAILS NO. 4 |
| 23. | TEMPORARY TRAFFIC PLAN 1 |
| 24. | TEMPORARY TRAFFIC PLAN 2 |


CONSTRUCTION NOTES

- CONSTRUCT 0.40' ASPHALT CONCRETE OVER 0.50' AGGREGATE BASE.
- CONSTRUCT 0.20' ASPHALT CONCRETE OVER COMPACTED NATIVE.
- CONSTRUCT VARIABLE ASPHALT CONCRETE OVERLAY, 0.10' MINIMUM.
- CONSTRUCT 8" CLRB AND 24" GUTTER PER CITY OF LOMA LINDA STD. R-2.1.
- CONSTRUCT 8" CLRB PER CITY OF LOMA LINDA STD. DWG. R-2.3.
- CONSTRUCT CURB SIDEWALK PER CITY OF LOMA LINDA STD. R-3.1.
- CONSTRUCT DRIVEWAY APPROACH PER CITY OF LOMA LINDA STD. R-4.1.
- CONSTRUCT CURB RETURN WHEELCHAIR RAMP PER CITY OF LOMA LINDA STD. R-4.2.
- CONSTRUCT 8" A.C. DIKE PER S.B.C.R.D. STD. DWG. 117.
- CONSTRUCT CATCH BASIN NO.1 PER CITY OF LOMA LINDA STD. SD-2.1 & SD-2.2.
- SEE PROFILE ON SHEET 6.
- CONSTRUCT LOCAL DEPRESSION PER CITY OF LOMA LINDA STD. SD-4. (CASE PER PLAN VIEW)
- CONSTRUCT CONCRETE COLLAR PER CITY OF LOMA LINDA STD. SD-9.
- CONSTRUCT JUNCTION STRUCTURE NO.1 PER CITY OF LOMA LINDA STD. SD-5
- NOT USED
- CONSTRUCT 8" CLRB PER CITY OF LOMA LINDA STD. R-2.3 (MODIFIED NO BATTER).
- CONSTRUCT JUNCTION STRUCTURE NO.2 PER CITY OF LOMA LINDA STD. SD-5. CASE 1 MODIFIED PER PROFILE ON SHEET 7.
- CONSTRUCT CONCRETE SWALE PER SECTION K-K ON SHEET 6.
- CONSTRUCT 8" GUTTER, MODIFIED PER CITY OF LOMA LINDA STD. DWG. R-6 AND SECTION B-B ON SHEET 6.
- NOT USED
- CONSTRUCT MANHOLE NO.1 PER CITY OF LOMA LINDA STD. SD-7.1 AND MODIFY TOP OF THE MANHOLE BY REPLACE THE CONCRETE RINGS AND REDUCER WITH TOP PORTION OF THE TYPE GCP GRATE INLET PER CALTRANS STD. D758
- CONSTRUCT 0.40' ASPHALT OVER 0.50' AGGREGATE BASE PEDESTRIAN ACCESS.
- CONSTRUCT RETAINING BLOCK WALL SEE PROFILE, PLAN AND DETAILS ON SHEET 11.
- CONSTRUCT SINGLE THREE BEAM BARRIER PER CALTRANS STD. A7B, A TO E.
- REMOVE WOOD RAIL FENCE IN CONFLICT WITH CONSTRUCTION.
- INSTALL FIRE HYDRANT PER CITY OF LOMA LINDA STD. W-7.
- INSTALL 18" RCP (1600 DI).
- INSTALL 30" RCP (1600 DI).
- INSTALL DRAIN PIPE INLET TYPE GCP PER CALTRANS STD. D758.
- RELOCATE EXISTING GUARD RAIL PER CALTRANS STD. A7D (BREM-AWAY)
- TYPE 1 FLAG WITH NEW WOOD POSTS PER STD. A77-C.
- CONSTRUCT FOR PEDESTRIAN ACCESS PER DETAILS ON SHEET 13 AND SHEET 14.
- REMOVE, SALVAGE AND RELOCATE EXISTING SIGN (SEE STRIPING PLAN).
- SAWCUT TO A SMOOTH STRAIGHT LINE.
- REMOVE EXISTING A.C. PAVEMENT, BERM OR CONCRETE.
- NOT USED
- REMOVE AND SALVAGE TO THE CITY.
- ADJUST MANHOLE OR WATER VALVE OR WATER VALVE BOX TO FINISH GRADE.
- TO BE RELOCATED OR ADJUSTED BY SCE.
- PROTECT IN PLACE.
- REMOVE AND DISPOSE.
- NOT USED.
- ABANDON EXISTING CULVERT.
- NOT USED.
- INSTALL 8" CHAIN LINK FENCE PER CALTRANS STD. A5E.
- INSTALL MARKERS AND DELINEATOR PER CALTRANS STD. A7B, TYPE N-4.
- INSTALL LIQUID ASPHALT (FOG SEAL).
- INSTALL ASPHALTIC EMULSION (PAINT BINDER).
- INSTALL 6" PVC SCHED 40 IRRIGATION SLEEVE.
- NOT USED.
- REMOVE CMP RISER.
- TO BE RELOCATED OR ADJUSTED BY SCE.
- RELOCATE CONCRETE DITCH/DRAIN.
- RELOCATE IRRIGATION CONTROL VALVE BOX.
- TO BE MOVED OR RELOCATED BY VERIZON.
- REMOVE AND RELOCATE WROUGHT IRON FENCE.
- REMOVE WROUGHT IRON FENCE CONFLICTING WITH CONSTRUCTION.
- REMOVE CATCH BASIN AND LOCAL DEPRESSION.
- REMOVE CONCRETE HEADWALL.
- REMOVE CONCRETE BOX CULVERT.
- REMOVE TOP OF EXISTING CONCRETE INLET AND PLUG PER DETAIL ON SHEET 7.
- NOT USED.
- INSTALL PIPE GATE PER SSC FCO STD DWG SP238.

REGISTERED CIVIL ENGINEER

PLANS APPROVAL DATE

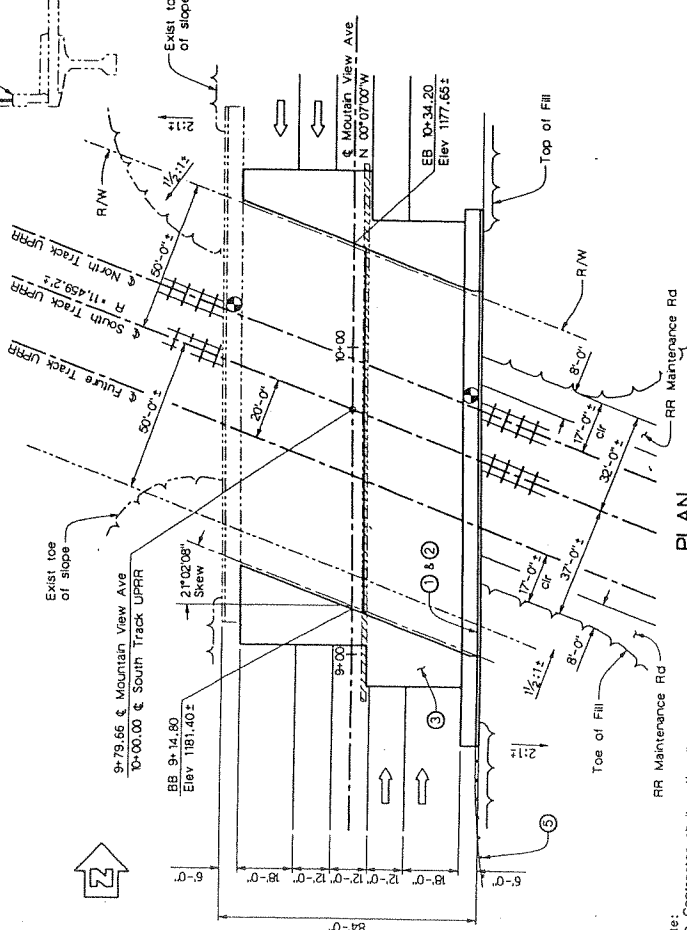
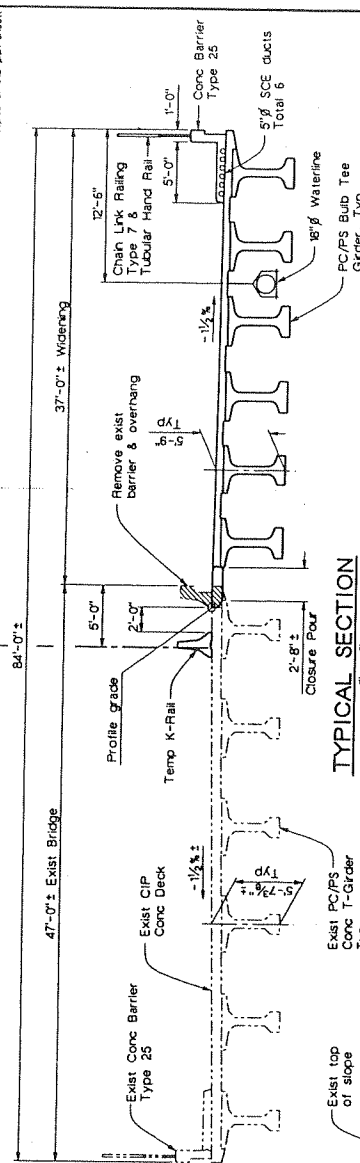
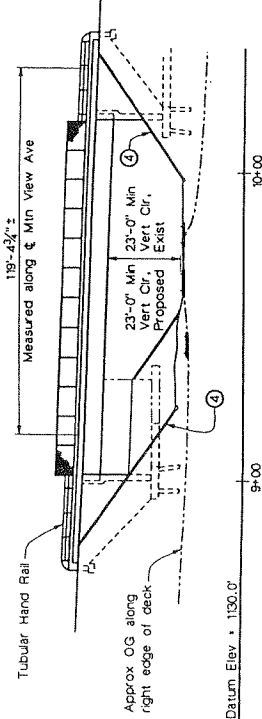
CITY OF LOMA LINDA
3800 Main Street
Riverside, California 92502



Location	Design Loading (Service)	Nominal Resistance		Design Tip Elevation
		Compression	Tension	
Abutment 1	70 Tons	280	0	1113 ft., 1124(2)
Abutment 2	70 Tons	280	0	1065 ft., 1124(2)

Design Tip Elevation is controlled by the following demands:
 (1) Compression, (2) Lateral Loads

Design Tip Elevation is controlled by the following demands:
(1) Compression, (2) Lateral Loads



FINAL PAY QUANTITIES

Structure Excavation (Bridge)
Structure Backfill (Bridge)
Permeable Material (Bridge)
Structural Concrete, Bridge
Structural Concrete, Bridge Footing
Structural Concrete, Aprachon Slab (Type N)
Bar Reinforcing Steel (Bridge)
Tubular Handrailing
Concrete Barrier (Type 26)
Chain Link Railing Type 7
Slope Pavng (Concrete)

APPROXIMATE QUANTITIES

Temporary Railing (Type K)
Bridge Removal Portion
Furnish Piling (Class 70)
Drive Pile (Class 70)
Drill and Grout Dowel
Furnish Precast, Prestressed Concrete Girder (10'-
12') Precast, Prestressed Concrete Girder
Neoprene Strip
Joint Seal (Type B - MR1)
3" Perforated Steel Pipe Underdrain (0.064" thick)
3" Corrugated Steel Pipe Underdrain (0.064" thick)

NOTES:

- ① Paint "Br No"
② Paint "Mountain View Avenue Overhead" & year completed
③ Structure Approach Type N101S
④ Slope Paving - Full Slope
⑤ MBGR, see "Road Plans"
-- -- Indicates existing Bridge

Indicates existing Bridge
Indicates existing Bridge removal (portion)

INDEX TO PLANS

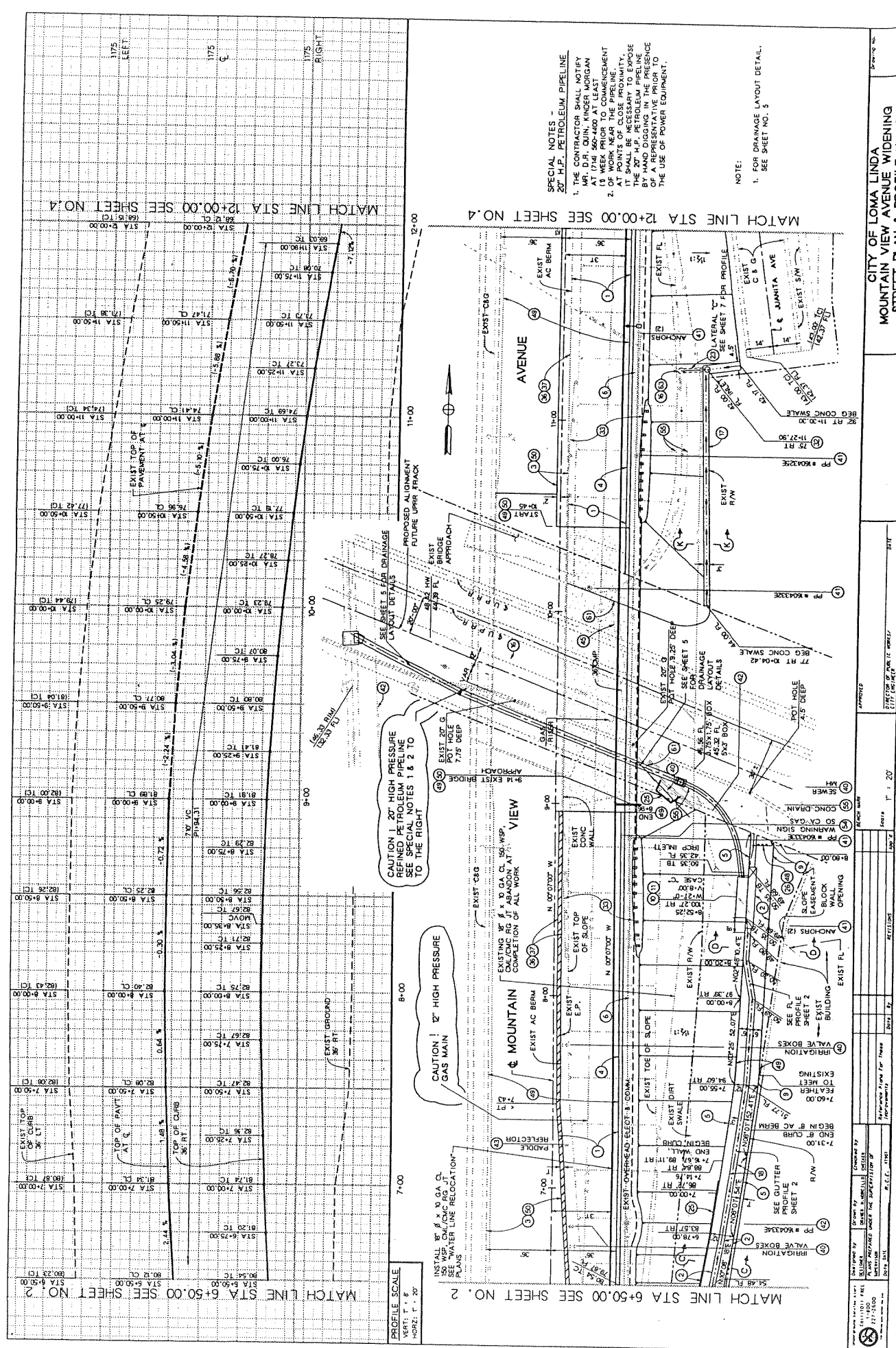
SHEET NO.	TITLE
1.	GENERAL PLAN
2.	FOUNDATION PLAN
3.	ABUTMENT LAYOUT
4.	ABUTMENT DETAILS NO. 1
5.	ABUTMENT DETAILS NO. 2
6.	TYPICAL SECTION
7.	GIRDER LAYOUT
8.	PRECAST BULB-TEE GIRDER DETAILS
9.	STRUCTURE APPROACH DRAINAGE DETAILS
10.	STRUCTURE APPROACH TYPE EQ (10)
11.	LOGO PAVING DETAILS
12.	SLOPE OF TEST BORINGS

NOTES:

- ① Paint "Br No"
② Paint "Mountain View Avenue"
③ Structure Approach Type
④ Slope Paving - Full Slope
⑤ MBGR, see "Road Plans"
----- Indicates existing Bridge

Indicates existing Bridge
Indicates existing Bridge removal (portion)

T. JARB THAIPE, JR.		DESIGN		BY J. MAI		CHECKED T. DUDLEY		CITY OF		TODD W. DUDLEY		BRIDGE NO.		MOUNTAIN VIEW AVENUE OVERHEAD	
		DETAILS		BY R. ANDRASEK		CHECKED		LOMA LINDA		PROJECT NUMBER		54C-353			
SHEET NO.		QUANTITIES		BY		CHECKED		PLANS AND SPECS		POST FILE					
								ORIGINAL SCALE IN INCHES FOR REDUCED PLANS							
								0							
								1							
								2							
								3							
								EA							
								CU							
								DISCARD PRINTS BEARING EARLIER REVISION DATES							
								REVISION DATES (PLANS, QUANTITIES, SHEETS)							
								REVISION DATES							
								GENERAL PLAN							



SPECIAL NOTES -
20' H.P. PETROLEUM PIPELINE
1. THE CONTRACTOR SHALL NOTIFY MR. D.R. QUIN, KINDER MORGAN AT 1746 560-4400 AT LEAST 10 WEEKS PRIOR TO COMMENCEMENT OF WORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. IT SHALL BE NECESSARY TO EXPOSE THE 20' H.P. PETROLEUM PIPELINE AND ADJACENT UTILITIES IN THE PRESENCE OF A REPRESENTATIVE OF THE USE OF POWER EQUIPMENT.

NOTE:
1. SEE DRAINAGE LAYOUT DETAIL, SEE SHEET NO. 5

**CITY OF LONA LINDA
MOUNTAIN VIEW AVENUE WIDENING
STREET PLAN & PROFILE NO. 2**

DATE: 11/11/00
DRAWN BY: J. L. LINDA
CHECKED BY: J. L. LINDA
APPROVED BY: J. L. LINDA

SCALE: 1" = 20'

SHEET NO. 2

PROJECT NO. 11000

CONTRACT NO. 11000

CONTRACTOR: J. L. LINDA

ENGINEER: J. L. LINDA

DATE: 11/11/00

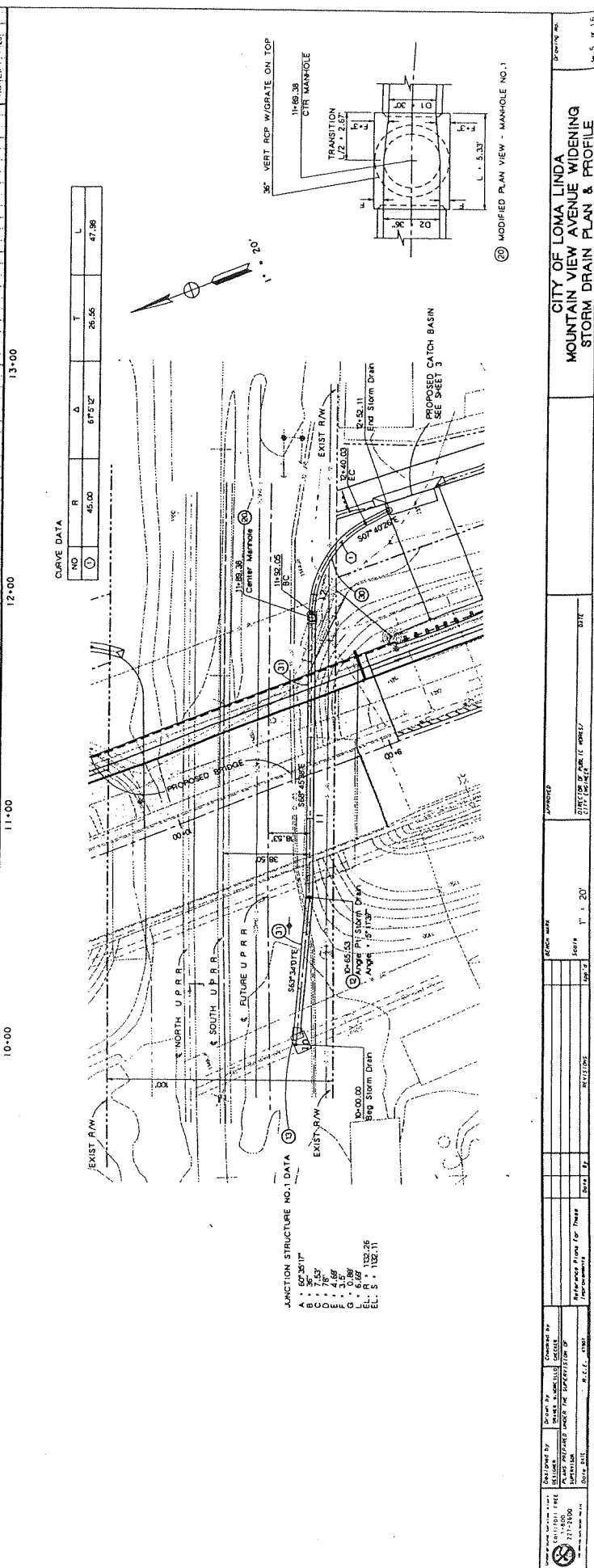
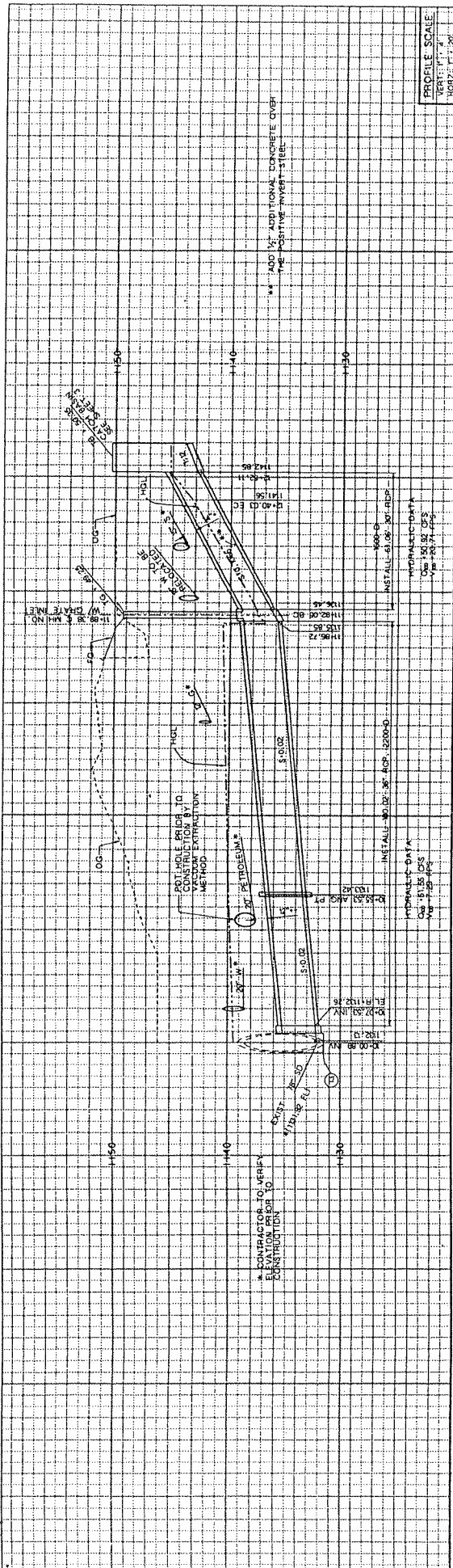




EXHIBIT A-2

To Existing Public Road Crossing Overpass Agreement

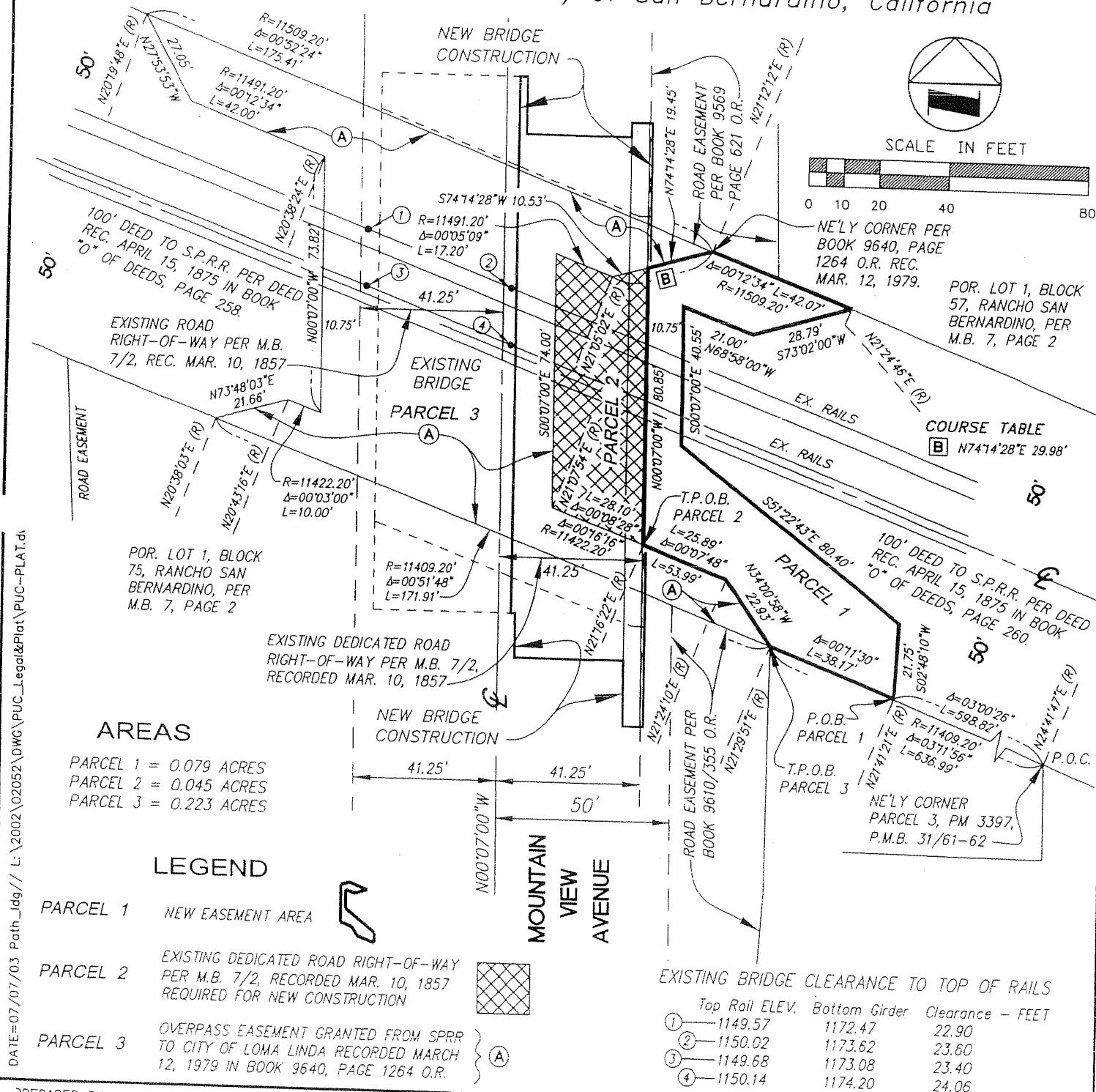
Cover Sheet for the Print Illustrating the Needed Additional
Railroad Right of Way
(See Recital)

EXHIBIT "A"

SHEET 5 of 5

P.U.C. Crossing No. B-543.6-B, (DOT #747172Y)
UPRR Southern California M.P. 543.6

MT. VIEW AVE - OVERHEAD
City of Loma Linda, County of San Bernardino, California



PREPARED BY:

PREPARED FOR:

Associated Engineers

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LAN Engineering



EXHIBIT A-3

To Existing Public Road Crossing Overpass Agreement

Cover Sheet for the Legal Description Defining the Needed
Additional Railroad Right of Way
(See Recital)

EXHIBIT A

PARCEL 1

Being a portion of Lot 1, Block 57, as shown on the Map of Rancho San Bernardino, situated in the City of Loma Linda, County of San Bernardino, State of California, as shown on a Map on file in Book 7, Page 2 of Maps in the Office of the County Recorder of said County, as described in a Deed to the Southern Pacific Railroad Company (100.00 feet wide), recorded April 15, 1875, in Book O, Page 260 of Deeds in said Office of the County Recorder, more particularly described as follows:

COMMENCING at the northeasterly corner of Parcel 3, as shown on Parcel Map 3397, on file in Book 31, Pages 61 and 62 of Parcel Maps in said Office of the County Recorder, said corner being on the southwesterly line of said Deed to the Southern Pacific Railroad Company, said southwesterly line being the northeasterly line of said Parcel 3, said southwesterly and northeasterly line being a curve concave southwesterly having a radius of 11,409.20 feet, a radial line through said corner bears North 24°41'47" East; thence northwesterly along said southwesterly and northeasterly line and said curve through a central angle of 03°00'26" an arc length of 598.82 feet to the **TRUE POINT OF BEGINNING**, a radial line through said point bears North 21°41'21" East; thence continuing along said southwesterly and northeasterly line and said curve through a central angle of 00°11'30" an arc length of 38.17 feet to the southeasterly corner of an Easement granted to the City of Loma Linda, recorded March 12, 1979, in Book 9640, Page 1264 of Official Records in said Office of the County Recorder; thence northwesterly along the easterly line of said Easement to the City of Loma Linda, North 34°00'58" West, 22.93 feet to the beginning point of a non-tangent curve concave southwesterly having a radius of 11,422.20 feet, said curve being concentric with and 13.00 feet northeasterly measured along radial lines from the aforementioned curve having a radius of 11,409.20 feet, said concentric curve being said easterly line of the Easement to the City of Loma Linda, a radial line through said point bears North 21°24'10" East; thence continuing northwesterly along said easterly line of the Easement to the City of Loma Linda and said concentric curve through a central angle of 00°07'48" an arc length of 25.89 feet to a point on the westerly line of said Block 57, said westerly line being the easterly line of Mountain View Avenue (82.50 feet wide) as shown on said Map of Rancho San Bernardino; thence northerly along said westerly and easterly line, North 00°07'00" West, 80.85 feet to a point on said easterly line of the Easement to the City of Loma Linda, said point bears South 74°14'28" West, 19.45 feet along said easterly line from the northeasterly corner of said Easement to the City of Loma Linda; thence northeasterly along said easterly line, North 74°14'28" East, 19.45 feet to said northeasterly corner, said northeasterly corner being on the northeasterly line of said Deed to the Southern Pacific Railroad Company, said northeasterly line being a non-tangent curve concave southwesterly having a radius of 11,509.20 feet, said non-tangent curve being concentric with and 100.00 feet northeasterly measured along radial lines from the aforementioned curve having a radius of 11,409.20 feet, a radial line through said point bears North 21°12'12" East; thence southeasterly along said last mentioned northeasterly line and said last mentioned concentric curve through a central angle of 00°12'34" an arc length of 42.07 feet; thence South 73°02'00" West, 28.79 feet; thence North 68°58'00" West, 21.00 feet; thence South 51°22'43" East, 80.40 feet; thence South 02°48'10" West, 21.75 feet to the **TRUE POINT OF BEGINNING**.

Area containing approximately 0.079 acres.

PARCEL 2

Being a portion of Mountain View Avenue (82.50 feet wide), as shown on the Map of Rancho San Bernardino, situated in the City of Loma Linda, County of San Bernardino, State of California, as shown on a Map on file in Book 7, Page 2 of Maps in the Office of the County Recorder of said County, more particularly described as follows:

COMMENCING at the northeasterly corner of Parcel 3, as shown on Parcel Map 3397, on file in Book 31, Pages 61 and 62 of Parcel Maps in said Office of the County Recorder, said corner being on the southwesterly line of said aforementioned Deed to the Southern Pacific Railroad Company, said southwesterly line being the northeasterly line of said Parcel 3, said southwesterly and northeasterly line being a curve concave southwesterly having a radius of 11,409.20 feet, a radial line through said corner bears North $24^{\circ}41'47''$ East; thence northwesterly along southwesterly and northeasterly line and said curve through a central angle of $03^{\circ}11'56''$ an arc length of 636.99 feet to the southeasterly corner of an Easement granted to the City of Loma Linda, recorded March 12, 1979, in Book 9640, Page 1264 of Official Records in said Office of the County Recorder; thence northwesterly along the easterly line of said Easement to the City of Loma Linda, North $34^{\circ}00'58''$ West, 22.93 feet to the beginning point of a non-tangent curve concave southwesterly having a radius of 11,422.20 feet, said curve being concentric with and 13.00 feet northeasterly measured along radial lines from the aforementioned curve having a radius of 11,409.20 feet, said concentric curve being said easterly line of the Easement to the City of Loma Linda, a radial line through said point bears North $21^{\circ}24'10''$ East; thence continuing northwesterly along said easterly line and said concentric curve through a central angle of $00^{\circ}07'48''$ an arc length of 25.89 feet to a point on the westerly line of said aforementioned Block 57, as shown on the Map of Rancho San Bernardino, said westerly line being the easterly line of said Mountain View Avenue, as shown thereon, said point being the **TRUE POINT OF BEGINNING**; thence northerly along said westerly and easterly line, North $00^{\circ}07'00''$ West, 80.85 feet to a point on said easterly line of the Easement to the City of Loma Linda, said point bears South $74^{\circ}14'28''$ West, 19.45 feet along said easterly line from the northeasterly corner of said Easement to the City of Loma Linda; thence southwesterly along said easterly line, South $74^{\circ}14'28''$ West, 10.53 feet to the beginning point of a non-tangent curve concave southwesterly having a radius of 11,491.20 feet, said curve being concentric with and 82.00 feet northeasterly measured along radial lines from the aforementioned curve having a radius of 11,409.20 feet, a radial line through said point bears North $21^{\circ}05'02''$ East; thence northwesterly and continuing along said easterly line of the Easement to the City of Loma Linda and along said last mentioned concentric curve through a central angle of $00^{\circ}05'09''$ an arc length of 17.20 feet; thence southerly along said easterly line of the Easement to the City of Loma Linda, South $00^{\circ}07'00''$ East, 74.00 feet to a point on the westerly extension of the aforementioned non-tangent concentric curve having a radius of 11,422.20 feet, a radial line through said point bears North $21^{\circ}07'54''$ East; thence southeasterly along said easterly line of the Easement to the City of Loma Linda and said last mentioned concentric curve through a central angle of $00^{\circ}08'28''$ an arc length of 28.10 feet to the **TRUE POINT OF BEGINNING**.

Area containing approximately 0.045 acres.

PARCEL 3

Being those portions of Lot 1, Block 57 and Lot 1, Block 75 and Mountain View Avenue (82.50 feet wide), as shown on the Map of Rancho San Bernardino, situated in the City of Loma Linda, County of San Bernardino, State of California, as shown on a Map on file in Book 7, Page 2 of Maps in the Office of the County Recorder of said County, as described in Deeds to the Southern Pacific Railroad Company (100.00 feet wide), recorded April 15, 1875, in Book O, Pages 258 and 260 of Deeds in said Office of the County Recorder, said portions being described in an Easement to the City of Loma Linda, recorded March 12, 1979, in Book 9640, Page 1264 of Official Records in said Office of the County Recorder, more particularly described as follows:

COMMENCING at the northeasterly corner of Parcel 3, as shown on Parcel Map 3397, on file in Book 31, Pages 61 and 62 of Parcel Maps in said Office of the County Recorder, said corner being on the southwesterly line of said Deeds to the Southern Pacific Railroad Company, said southwesterly line being the northeasterly line of said Parcel 3, said southwesterly and northeasterly line being a curve concave southwesterly having a radius of 11,409.20 feet, a radial line through said corner bears North 24°41'47" East; thence northwesterly along said southwesterly and northeasterly line and said curve through a central angle of 03°11'56" an arc length of 636.99 feet to the southeasterly corner of said Easement to the City of Loma Linda, said corner point being the **TRUE POINT OF BEGINNING**, a radial line through said point bears North 21°29'51" East; thence continuing along said southwesterly and northeasterly line, the northwesterly extension of said northeasterly line, the southwesterly line of said Easement to the City of Loma Linda and said curve through a central angle of 00°51'48" an arc length of 171.91 feet to a point on the westerly line of said Easement to the City of Loma Linda; thence northeasterly along said westerly line, North 73°48'03" East, 21.66 feet to a point on the northwesterly extension of said aforementioned non-tangent concentric curve having a radius of 11,422.20 feet, a radial line through said point bears North 20°43'16" East; thence southeasterly along said westerly line and said curve through a central angle of 00°03'00" an arc length of 10.00 feet; thence northerly along said westerly line, North 00°07'00" West, 73.82 feet to the northwesterly extension of said aforementioned non-tangent concentric curve having a radius of 11,491.20 feet, a radial line through said point bears North 20°38'24" East; thence northwesterly along said westerly line and said last mentioned non-tangent concentric curve through a central angle of 00°12'34" an arc length of 42.00 feet; thence northwesterly along said westerly line, North 27°53'53" West, 27.05 feet to the northwesterly corner of said Easement to the City of Loma Linda, said northwesterly corner being on the northeasterly line of said Deeds to the Southern Pacific Railroad Company, said northeasterly line being the northwesterly extension of the aforementioned non-tangent concentric curve having a radius of 11,509.20 feet, a radial line through said point bears North 20°19'48" East; thence southeasterly along said last mentioned northeasterly line, the northeasterly line of said Easement to the City of Loma Linda and said last mentioned non-tangent concentric curve through a central angle of 00°52'24" an arc length of 175.41 feet to said aforementioned northeasterly corner of the Easement to the City of Loma Linda; thence southwesterly along said aforementioned easterly line of the Easement to the City of Loma Linda, South 74°14'28" West, 29.98 feet to the beginning point of said aforementioned non-tangent curve concave southwesterly having a radius of 11,491.20 feet, a radial line through said point bears North 21°05'02" East; thence northwesterly and continuing along said easterly line of the Easement to the City of Loma Linda and along said last mentioned concentric curve through a central angle of

00°05'09" an arc length of 17.20 feet; thence southerly along said easterly line of the Easement to the City of Loma Linda, South 00°07'00" East, 74.00 feet to a point on said aforementioned non-tangent concentric curve having a radius of 11,422.20 feet, a radial line through said point bears North 21°07'54" East; thence southeasterly and continuing along said easterly line of the Easement to the City of Loma Linda and said last mentioned non-tangent concentric curve through a central angle of 00°16'16" an arc length of 53.99 feet; thence southeasterly continuing along said easterly line of the Easement to the City of Loma Linda, South 34°00'58" East, 22.93 feet to the **TRUE POINT OF BEGINNING**.

Area containing approximately 0.223 acres.

See Sheet 5 of 5 for a plat depicting said description.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: _____

[Handwritten Signature]
JAMES JOHN IMBIORSKI, L.S. 4430
Expires 9/30/05

Date: _____

[Handwritten Date]
July 7, 2003





EXHIBIT B

To Existing Public Road Crossing Overpass Agreement

Cover Sheet for the General Terms and Conditions
(See Article 1)

EXHIBIT B

TO PUBLIC ROAD CROSSING OVERPASS AGREEMENT

TERMS AND CONDITIONS

SECTION 1 - CONDITIONS AND COVENANTS

- a) The Railroad makes no covenant or warranty of title for quiet possession or against encumbrances. The Political Body shall not use or permit use of the Crossing Area for any purposes other than those described in this Agreement. Without limiting the foregoing, the Political Body shall not use or permit use of the Crossing Area for railroad purposes, or for gas, oil or gasoline pipe lines. Any lines constructed on the Railroad's property by or under authority of the Political Body for the purpose of conveying electric power or communications incidental to the Political Body's use of the property for highway purposes shall be constructed in accordance with specifications and requirements of the Railroad, and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. No nonparty shall be admitted by the Political Body to use or occupy any part of the Railroad's property without the Railroad's written consent. Nothing herein shall obligate the Railroad to give such consent.
- b) The Railroad reserves the right to cross the Crossing Area with such railroad tracks as may be required for its convenience or purposes in such manner as not unreasonably to interfere with its use as a public highway. In the event the Railroad shall place tracks upon the Crossing Area, the Political Body shall, at its sole cost and expense, modify the highway to conform with the rail line.
- c) The right hereby granted is subject to any existing encumbrances and rights (whether public or private), recorded or not, and also to any renewals thereof. The Political Body shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the railroad property, unless the Political Body at its own expense settles with and obtains releases from such nonparties.
- d) The Railroad reserves the right to use and to grant to others the right to use the Crossing Area for any purpose not inconsistent with the right hereby granted, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, facilities and appurtenances on the property; also the right to cross the Crossing Area with all kinds of equipment. The Railroad further reserves the right to attach signal, communication or power lines to any highway facilities located upon the property, provided that such attachments shall comply with Political Body's specifications and will not interfere with the use of the Crossing Area.
- e) So far as it lawfully may do so, the Political Body will assume, bear and pay all taxes and assessments of whatsoever nature or kind (whether general, local or special) levied or assessed upon or against the Crossing Area, excepting taxes levied upon and against the property as a component part of the Railroad's operating property.
- f) If any property or rights other than the right hereby granted are necessary for the construction, maintenance and use of the Structure and its appurtenances, or for the performance of any work in connection with the Project, the Political Body will acquire all such other property and rights at its own expense and without expense to the Railroad.

SECTION 2 - CONSTRUCTION OF STRUCTURE

- a) The Political Body, at its expense, will apply for and obtain all public authority required by law, ordinance, rule or regulation for the Project, and will furnish the Railroad upon request with satisfactory evidence that such authority has been obtained.
- b) Except as may be otherwise specifically provided herein, the Political Body, at its expense, will furnish all necessary labor, material and equipment, and shall construct and complete the Structure and all appurtenances thereof. The appurtenances shall include, without limitation, all necessary and proper drainage facilities, guard rails or barriers, and right of way fences between the Structure and the railroad tracks. Upon completion of the Project, the Political Body shall remove from the Railroad's property all temporary structures and false work, and will leave the Crossing Area in a condition satisfactory to the Railroad.
- c) All construction work of the Political Body upon the Railroad's property (including, but not limited to, construction of the Structure and all appurtenances and all related and incidental work) shall be performed and completed in a manner satisfactory to the Assistant Vice President Engineering - Design of the Railroad or his authorized representative and in accordance with the Plans, the Railroad's Minimum Requirements set forth in **Exhibit D** and other guidelines furnished by the Railroad.
- d) All construction work of the Political Body shall be performed diligently and completed within a reasonable time, and in any event within three (3) years from the effective date of this Agreement, or within such further period of time as may be specified in writing by the Railroad's Assistant Vice President Engineering - Design. No part of the Project shall be suspended, discontinued or unduly

delayed without the Railroad's written consent, and subject to such reasonable conditions as the Railroad may specify. It is understood that the Railroad's tracks at and in the vicinity of the work will be in constant or frequent use during progress of the work and that movement or stoppage of trains, engines or cars may cause delays in the work of the Political Body. The Political Body hereby assumes the risk of any such delays and agrees that no claims for damage on account of any delay shall be made against the Railroad.

SECTION 3 - INJURY AND DAMAGE TO PROPERTY

If the Political Body, in the performance of any work contemplated by this Agreement or by the failure to do or perform anything for which the Political Body is responsible under the provisions of this Agreement, shall injure, damage or destroy any property of the Railroad or of any other person lawfully occupying or using the property of the Railroad, such property shall be replaced or repaired by the Political Body at the Political Body's own expense, or by the Railroad at the expense of the Political Body, and to the satisfaction of the Railroad's Assistant Vice President Engineering - Design.

SECTION 4 - PAYMENT FOR WORK BY THE RAILROAD

a) Bills for work and materials shall be paid by the Political Body within thirty (30) days of its receipt thereof. The Railroad will submit to the Political Body current bills for all work performed by the Railroad and all flagging and other protective services and devices during progress of the Project (unless flagging is to be billed directly to the Contractor). The Railroad will submit final billing within one hundred and twenty (120) days after completion of the Project, provided the Political Body advises the Railroad of the commencement of the 120-day period by giving the Railroad written notification of completion of the Project.

b) The Railroad may contract for the performance of any of its work by other than railroad forces. The Railroad shall notify the Political Body of the contract price within ninety (90) days after it is awarded. Unless the Railroad's work is to be performed on a fixed price basis, the Political Body shall reimburse the Railroad for the amount of the contract.

SECTION 5 - MAINTENANCE AND REPAIRS

a) The Political Body, at its expense, shall maintain, repair and renew, or cause to be maintained, repaired and renewed, the entire Structure, including, but not limited to, the superstructure, substructure, piers, abutments, walls, approaches and all backfill, grading and drainage required by reason of the Structure, as well as all graffiti removal or overpainting involving the Structure.

b) The Railroad, at its expense, will maintain, repair and renew, or cause to be maintained, repaired and renewed, the rails, ties, ballast and communication and signal facilities owned by the Railroad beneath the Structure.

SECTION 6 - SAFETY MEASURES; PROTECTION OF RAILROAD COMPANY OPERATIONS

It is understood and recognized that safety and continuity of the Railroad's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all of said work of the Political Body that the work will be performed in a safe manner and in conformity with the following standards:

a) **Definitions.** All references in this Agreement to the Political Body shall also include the Contractor and their respective officers, agents and employees, and others acting under its or their authority; and all references in this Agreement to work of the Political Body shall include work both within and outside of the Railroad's property.

b) **Compliance With Laws.** The Political Body shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Political Body shall use only such methods as are consistent with safety, both as concerns the Political Body, the Political Body's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Political Body (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal Railroad Administration regulations shall be followed when work is performed on the Railroad's premises. If any failure by the Political Body to comply with any such laws, regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Railroad, the Political Body shall reimburse and indemnify the Railroad for any such fine, penalty, cost, or charge, including without limitation attorney's fees, court costs and expenses. The Political Body further agrees in the event of any such action, upon notice thereof being provided by the Railroad, to defend such action free of cost, charge, or expense to the Railroad.

c) **No Interference or Delays.** The Political Body shall not do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Railroad's tracks or facilities, or any communication or signal lines, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the Railroad's property or facilities.

- d) **Supervision.** The Political Body, at its own expense, shall adequately police and supervise all work to be performed by the Political Body, and shall not inflict injury to persons or damage to property for the safety of whom or of which the Railroad may be responsible, or to property of the Railroad. The responsibility of the Political Body for safe conduct and adequate policing and supervision of the Project shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad's representatives, or by compliance by the Political Body with any requests or recommendations made by such representatives. If a representative of the Railroad is assigned to the Project, the Political Body will give due consideration to suggestions and recommendations made by such representative for the safety and protection of the Railroad's property and operations.
- e) **Suspension of Work.** If at any time the Political Body's engineers or the Vice President-Engineering Services of the Railroad or their respective representatives shall be of the opinion that any work of the Political Body is being or is about to be done or prosecuted without due regard and precaution for safety and security, the Political Body shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.
- f) **Removal of Debris.** The Political Body shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any property or facilities of the Railroad; and any such material and debris shall be promptly removed from the Railroad's property by the Political Body at the Political Body's own expense or by the Railroad at the expense of the Political Body. The Political Body shall not cause, suffer or permit any snow to be plowed or cast upon the Railroad's property during snow removal from the Crossing Area.
- g) **Explosives.** The Political Body shall not discharge any explosives on or in the vicinity of the Railroad's property without the prior consent of the Railroad's Vice President-Engineering Services, which shall not be given if, in the sole discretion of the Railroad's Vice President-Engineering Services, such discharge would be dangerous or would interfere with the Railroad's property or facilities. For the purposes hereof, the "vicinity of the Railroad's property" shall be deemed to be any place on the Railroad's property or in such close proximity to the Railroad's property that the discharge of explosives could cause injury to the Railroad's employees or other persons, or cause damage to or interference with the facilities or operations on the Railroad's property. The Railroad reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the Railroad, in the Railroad's sole discretion, may deem to be necessary, desirable or appropriate.
- h) **Excavation.** The Political Body shall not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, or impair or endanger the clearance between existing or new slopes and the tracks of the Railroad. The Political Body shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect the Railroad's tracks or facilities. The Political Body, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by the Political Body in connection with construction, maintenance or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the Railroad's Assistant Vice President Engineering - Design to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the Railroad's operations in the vicinity.
- i) **Drainage.** The Political Body, at the Political Body's own expense, shall provide and maintain suitable facilities for draining the Structure and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the Railroad. The Political Body, at the Political Body's own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the Railroad's culvert and drainage facilities), so that said waters may not, because of any facilities or work of the Political Body, be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the Railroad or any part thereof, or property of others. The Political Body shall not obstruct or interfere with existing ditches or drainage facilities.
- j) **Notice.** Before commencing any work, the Political Body shall provide at least ten (10) days prior notice (excluding weekends and holidays) to the Railroad's Manager-Track Maintenance.
- k) **Fiber Optic Cables.** Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Political Body shall telephone the Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Political Body. If it is, Political Body will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the Railroad's premises.

SECTION 7 - INTERIM WARNING DEVICES

If at anytime it is determined by a competent authority, by the Political Body, or by agreement between the parties, that new or improved train activated warning devices should be installed at the Crossing Area, the Political Body shall install adequate temporary

warning devices or signs and impose appropriate vehicular control measures to protect the motoring public until the construction or reconstruction of the Structure has been completed.

SECTION 8 - OTHER RAILROADS

All protective and indemnifying provisions of this Agreement shall inure to the benefit of the Railroad and any other railroad company lawfully using the Railroad's property or facilities.

SECTION 9 - REMEDIES FOR BREACH OR NONUSE

a) If the Political Body shall fail, refuse or neglect to perform and abide by the terms of this Agreement, the Railroad, in addition to any other rights and remedies, may perform any work which in the judgment of the Railroad is necessary to place the Structure and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and the Political Body will reimburse the Railroad for the expenses thereof.

b) Nonuse by the Political Body of the Crossing Area for public highway purposes continuing at any time for a period of eighteen (18) months shall, at the option of the Railroad, work a termination of this Agreement and of all rights of the Political Body hereunder.

c) The Political Body will surrender peaceable possession of the Crossing Area and Structure upon termination of this Agreement. Termination of this Agreement shall not affect any rights, obligations or liabilities of the parties, accrued or otherwise, which may have arisen prior to termination.

SECTION 10 - MODIFICATION - ENTIRE AGREEMENT

No waiver, modification or amendment of this Agreement shall be of any force or effect unless made in writing, signed by the Political Body and the Railroad and specifying with particularity the nature and extent of such waiver, modification or amendment. Any waiver by the Railroad of any default by the Political Body shall not affect or impair any right arising from any subsequent default. This Agreement and Exhibits attached hereto and made a part hereof constitute the entire understanding between the Political Body and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work or any part thereof.

SECTION 11 - ASSIGNMENT; SUCCESSORS AND ASSIGNS

This Agreement shall not be assigned without the written consent of the Railroad. Subject hereto, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.



EXHIBIT B-1

To Existing Public Road Crossing Overpass Agreement

Cover Sheet for the Contractor's Insurance Requirements
(See Article 1)

**EXHIBIT B-1****TO PUBLIC ROAD CROSSING OVERPASS AGREEMENT****INSURANCE REQUIREMENTS**

Contractor shall, at its sole cost and expense, procure and maintain during the course of the Project and until all Project work on Railroad's property has been completed and the Contractor has removed all equipment and materials from the Railroad's property and has cleaned and restored Railroad's property to Railroad's satisfaction, the following insurance coverage:

A. Commercial General Liability Insurance. This insurance shall contain a single limit of at least \$5,000,000 each occurrence or claim and an aggregate limit of at least \$10,000,000 and include broad form contractual liability coverage. Coverage must be purchased on a post 1998 ISO or equivalent form, including but not limited to coverage for the following:

- Bodily injury including death and personal injury
- Property damage
- Fire legal liability (Not less than the replacement value of the portion of the premises occupied)
- Products and completed operations

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- The workers compensation and employee related exclusions in the above policy apply only to employees of the Contractor
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.
- Coverage for Contractor's (and Railroad's) employees shall not be excluded
- Waiver of subrogation

If the Contractor will be using, storing and/or handling hazardous materials, the Contractor, in addition to the other endorsements to be obtained by the Contractor as provided in this exhibit, must also ensure that the Commercial General Liability Insurance policy contains a Designated Premises Pollution Coverage (CG00-39) endorsement. Evidence of the endorsement must also be indicated on the certificate of insurance that is provided to the Railroad.

B. Business Automobile Coverage Insurance. This insurance shall contain a combined single limit of at least \$5,000,000 per occurrence or claim, including but not limited to coverage for the following:

- Bodily injury and property damage
- Any and all motor vehicles including owned, hired and non-owned

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- The workers compensation and employee related exclusions in the above policy apply only to employees of the Contractor
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed
- Motor Carrier Act Endorsement- Hazardous materials clean up (MCS-90) if required by law

C. Workers Compensation and Employers Liability Insurance including but not limited to:

- Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement
- Employers' Liability (Part B) with limits of at least
 - \$500,000 each accident, \$500,000 disease policy limit
 - \$500,000 each employee

If Workers Compensation insurance will not cover the liability of Contractor in states that require participation in state workers'

compensation fund, Contractor shall comply with the laws of such states. If Contractor is self-insured, evidence of state approval must be provided along with evidence of excess workers compensation coverage. Coverage shall include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy shall also contain the following endorsement **which shall be indicated on the certificate of insurance**:

- Alternate Employer Endorsement

D. Umbrella or Excess Policies In the event Contractor utilizes Umbrella or excess policies, these policies shall "follow form" and afford no less coverage than the primary policy.

E. Railroad Protective Liability Insurance naming only the Railroad as the insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The policy shall be broad form coverage for "Physical Damage to Property" (ISO Form CG 00 35 07 98 or equivalent). A binder stating the policy is in place must be submitted to the Railroad until the original policy is forwarded to the Railroad.

Other Requirements

F. Punitive damage exclusion must be deleted, **which deletion shall be indicated on the certificate of insurance.**

G. Contractor waives its right of recovery, and shall cause its insurers, through policy endorsement, to waive their right of subrogation against Railroad including, without limitation, for loss of Contractor's owned or leased property or property under Contractor's care, custody and control. Contractor's insurance shall be primary with respect to any insurance carried by Railroad. All waivers of subrogation **shall be indicated on the certificate of insurance.**

H. All Policy(ies) required above (excluding Workers Compensation) shall provide severability of interests and shall name Railroad as an additional insured. The coverage provided to Railroad as additional insured shall provide coverage for Railroad's negligence whether sole or partial, active or passive, and shall not be limited by Contractor's liability under the indemnity provisions of this Agreement. **Severability of interest and naming Railroad as additional insured shall be indicated on the certificate of insurance.**

I. Prior to commencing any work, Contractor shall furnish to Railroad original certificate(s) of insurance evidencing the required coverage, endorsements, and amendments. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railroad in writing of any cancellation or material alteration. **Upon request from Railroad, a certified duplicate original of any required policy shall be furnished.**

J. Any insurance policy shall be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

K. Contractor **WARRANTS** that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement and acknowledges that Contractor's insurance coverage will be primary.

L. The fact that insurance is obtained by Contractor or Railroad on behalf of Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad shall not be limited by the amount of the required insurance coverage.



EXHIBIT C

To Existing Public Road Crossing Overpass Agreement

Cover Sheet for the Railroad's minimum overpass construction standards
(See Article 8)

EXHIBIT C

TO PUBLIC ROAD CROSSING OVERPASS AGREEMENT

MINIMUM CONSTRUCTION REQUIREMENTS

PART 1 – GENERAL

1.01 DESCRIPTION

This project includes construction work within the Right-of-Way and/or properties of the Union Pacific Railroad Company ("UPRR") and adjacent to its tracks, wire lines and other facilities. This section describes the minimum special requirements for coordination with UPRR when work by the Contractor will be performed upon, over or under the UPRR Right-of-Way or may impact current or future UPRR operations. The Contractor will coordinate with UPRR while performing the work outlined in this Contract, and shall afford the same cooperation with UPRR as it does with the Agency. All submittals and work shall be completed in accordance with UPRR Guidelines and AREMA recommendations as modified by these minimum special requirements or as directed in writing by the UPRR Designated Representative.

For purposes of this project, the UPRR Designated Representative shall be the person or persons designated by the UPRR Manager of Industry and Public Projects to handle specific tasks related to the project.

1.02 DEFINITION OF AGENCY AND CONTRACTOR

As used in these UPRR requirements, the term "Agency" shall mean the Political Body .

As used in these UPRR requirements, the term "Contractor" shall mean the contractor or contractor's hired by the Agency to perform any project work on any portion of UPRR's property and shall also include the contractor's subcontractor's and the contractor's and subcontractor's respective officer, agents and employees, and others acting under its or their authority.

1.03 UPRR CONTACTS

The primary UPRR point of contact for this project is:

Freddy Cheung
Manager Industry & Public Projects
Union Pacific Railroad Company
19100 Slover Avenue
Bloomington, CA 92316
Phone: 909-879-6288
Fax: 909-879-6289

For UPRR flagging services and track work, contact:

Richard A. Clark
Manager Track Maintenance
Union Pacific Railroad Company
45050 Pacific Street
Indio, CA 92201
Phone: (909) 879-6154
FAX: (909) 879-6156
Cell: 760-485-0876

1.04 REQUEST FOR INFORMATION / CLARIFICATION

All Requests for Information ("RFI") involving work within any UPRR Right-Of-Way shall be in accordance with the procedures listed elsewhere in these bid documents. All RFI's shall be submitted to the Engineer of Record. The Engineer of Record will submit the RFI to the UPRR Designated Representative for review and approval for RFI's corresponding to work within the UPRR Right-Of-Way. The Contractor shall allow four (4) weeks for the review and approval process by UPRR.



1.05 PLANS / SPECIFICATIONS

The plans and specifications for this project, affecting the UPRR, are subject to the written approval by the UPRR and changes in the plans may be required after award of the Contract. Such changes are subject to the approval of the Agency and the UPRR.

PART 2 – UTILITIES AND FIBER OPTIC

All installations shall be constructed in accordance with current AREMA recommendations and UPRR specifications and requirements. UPRR general guidelines and the required application forms for utility installations can be found on the UPRR website at uprr.com.

3.01 GENERAL

A. Contractor shall perform all its work in compliance with all applicable UPRR and FRA rules and regulations. Contractor shall arrange and conduct its work in such manner and at such times as shall not endanger or interfere with the safe operation of the tracks and property of UPRR and the traffic moving on such tracks, or the wires, signals and other property of UPRR, its tenants or licensees, at or in the vicinity of the Work. UPRR shall be reimbursed by Contractor or Agency for train delay cost and lost revenue claims due to any delays or interruption of train operations resulting from Contractor's construction or other activities.

B. Construction activities will be permitted within 12 feet of the operational tracks only if absolutely necessary and UPRR's Designated Representative grants approval. Construction activities within 12 feet of the operational track(s) must allow the tracks to stay operational.

C. Track protection is required for all work equipment (including rubber tired equipment) operating within 25 feet from nearest rail.

D. The Contractor is also advised that new railroad facilities within the project may be built by UPRR and that certain Contractor's activities cannot proceed until that work is completed. The Contractor shall be aware of the limits of responsibilities and allow sufficient time in the schedule for that work to be accomplished and shall coordinate its efforts with the UPRR.

3.02 RAILROAD OPERATIONS

A. The Contractor shall be advised that trains and/or equipment are expected on any track, at any time, in either direction. Contractor shall be familiar with the train schedules in this location and structure its bid assuming intermittent track windows in this period, as defined in Paragraph B below.

B. All railroad tracks within and adjacent to the Contract Site are active, and rail traffic over these facilities shall be maintained throughout the Project. Activities may include both through moves and switching moves to local customers. Railroad traffic and operations will occur continuously throughout the day and night on these tracks and shall be maintained at all times as defined herein. The Contractor shall coordinate and schedule the work so that construction activities do not interfere with railroad operations.

C. Work windows for this Contract shall be coordinated with the Agency's and the UPRR's Designated Representatives. Types of work windows include Conditional Work Windows and Absolute Work Windows, as defined below:

1. Conditional Work Window: A Conditional Work Window is a period of time that railroad operations have priority over construction activities. When construction activities may occur on and adjacent to the railroad tracks within 25 feet of the nearest track, a UPRR flag person will be required. At the direction of the UPRR flag person, upon approach of a train, and when trains are present on the tracks, the tracks must be cleared (i.e., no construction equipment, materials or personnel within 25 feet, or as directed by the UPRR Designated Representative, from the tracks). Conditional Work Windows are available for the Project.

2. Absolute Work Window: An Absolute Work Window is a period of time that construction activities are given priority over railroad operations. During this time frame the designated railroad track(s) will be inactive for train movements and may be fouled by the Contractor. At the end of an Absolute Work Window the railroad tracks and/or signals must be completely operational for train operations and all UPRR, Public Utilities Commission (PUC) and Federal Railroad Administration (FRA) requirements, codes and regulations for operational tracks must be complied with. In the situation where the operating tracks and/or signals have been affected, the UPRR will perform inspections of the work prior to placing that track back into service. UPRR flag persons will be required for construction activities requiring an Absolute Work Window. **Absolute Work Windows will not generally be granted. Any request will require a detailed explanation for UPRR review.**

3.03 RIGHT OF ENTRY, ADVANCE NOTICE AND WORK STOPPAGES

A. Prior to beginning any work on or over the property of, or affecting the facilities of, the UPRR, the Contractor shall enter into an agreement with the UPRR in the form of the "Contractor's Right of Entry Agreement", attached as Exhibit E, or latest version thereof provided by the UPRR. There is a fee for processing of the agreement. This cost shall be borne by the Contractor. Contractor shall submit a copy of the executed agreement and the insurance policies, binders, certificates and endorsements set forth therein to the Agency prior to commencing work on UPRR property. The right of entry agreement shall specify working time frames, flagging and inspection requirements, and any other items specified by the UPRR.

B. The Contractor shall give the advance notice to the UPRR as required in the "Contractor's Right of Entry Agreement" before commencing work in connection with construction upon or over UPRR's Right-of-Way and shall observe UPRR's rules and regulations with respect thereto.

C. All work upon UPRR's Right-of-Way shall be done at such times and in such manner as not to interfere with or endanger the operations of UPRR. Whenever work may affect the operations or safety of trains, the method of doing such work shall first be submitted to UPRR's Designated Representative for approval, but such approval shall not relieve the Contractor from liability. Any work to be performed by the Contractor, which requires flagging service or inspection service, shall be deferred until the flagging protection required by UPRR is available at the job site. See Section 3.18 for railroad flagging requirements.

D. The Contractor shall make requests in writing for both Absolute and Conditional Work Windows, at least two weeks in advance of any work. The written request must include:

1. Exactly what the work entails.
2. The days and hours that work will be performed.
3. The exact location of work, and proximity to the tracks.
4. The type of window requested and the amount of time requested.
5. The designated contact person.

The Contractor shall provide a written confirmation notice to the UPRR at least 48 hours before commencing work in connection with approved work windows when work will be performed within **25 feet of any track center line**. All work shall be performed in accordance with previously approved work plans.

E. Should a condition arising from, or in connection with the work, require that immediate and unusual provisions be made to protect operations and property of UPRR, the Contractor shall make such provisions. If in the judgment of UPRR's Designated Representative such provisions are insufficient, the UPRR's Designated Representative may require or provide such provisions as deemed necessary. In any event, such provisions shall be at the Contractor's expense and without cost to the UPRR. UPRR or the Agency shall have the right to order Contractor to temporarily cease operations in the event of an emergency or, if in the opinion of the UPRR's Designated Representative, the Contractor's operations could endanger UPRR's operations. In the event such an order is given, Contractor shall immediately notify the Agency of the order.

3.04 INSURANCE

Contractor shall not begin work upon or over UPRR's Right-of-Way until UPRR has been furnished the insurance policies, binders, certificates and endorsements required by the "Contractor's Right-of-Entry Agreement" and UPRR's Designated Representative has advised the Agency that such insurance is in accordance with the Agreement. The required insurance shall be kept in full force and effect during the performance of work and thereafter until Contractor removes all tools, equipment, and material from UPRR's property and cleans the premises in a manner reasonably satisfactory to UPRR.

3.05 RAILROAD SAFETY ORIENTATION

All personnel employed by the Contractor and all subcontractors must complete the UPRR course "Orientation for Contractor's Safety", and be registered prior to working on UPRR property. This orientation is available at www.contractororientation.com. This course is required to be completed annually.

3.06 COOPERATION

UPRR will cooperate with Contractor so that work may be conducted in an efficient manner, and will cooperate with Contractor in enabling use of UPRR's right-of-way in performing the work.

**3.07 MINIMUM CONSTRUCTION CLEARANCES FOR FALSEWORK AND OTHER TEMPORARY STRUCTURES**

The Contractor shall abide by the following minimum temporary clearances during the course of construction:

- A. 12' – 0" horizontal from centerline of track
- B. 21' – 0" vertically above top of rail.

For construction clearance less than listed above, local Operating Unit review and approval is required.

3.08 APPROVAL OF REDUCED CLEARANCES

- A. The minimum track clearances to be maintained by the Contractor during construction are specified in Section 3.07 herein.
- B. Any proposed infringement on the specified minimum clearances due to the Contractor's operations shall be submitted to UPRR's Designated Representative through the Agency at least 30 days in advance of the work and shall not be undertaken until approved in writing by the UPRR's Designated Representative.
- C. No work shall commence until the Contractor receives in writing assurance from UPRR's Designated Representative that arrangements have been made for flagging service, as may be necessary and receives permission from UPRR's Designated Representative to proceed with the work.

3.09 CONSTRUCTION AND AS-BUILT SUBMITTALS

- A. Submittals are required for construction materials and procedures as outlined below. The submittals shall include all review comments from the Agency and the Engineer of Record. All design submittals shall be stamped and signed by a Professional Engineer registered in the State of California.
- B. The tables below provide UPRR's minimum submittal requirements for the construction items noted. Submittal requirements are in addition to those specified elsewhere in these bid documents. The minimum review times indicated below represent UPRR's requirements only. The Contractor shall allow additional time for the Agency's review time as stated elsewhere in these bid documents.
- C. Submittals shall be made by the Agency to the UPRR Manager of Industry and Public Projects unless otherwise directed by the Railroad. Items in Table 1 shall be submitted for both railroad overpass and underpass projects, as applicable. Items in Table 2 shall be submitted for railroad underpass projects only.

TABLE 1

ITEM	DESCRIPTION	SETS REQD.	UPRR's Minimum Review Time
1	Shoring design and details	4	4 weeks
2	Falsework design and details	4	4 weeks
3	Drainage design provisions	4	4 weeks
4	Erection diagrams and sequence	4	4 weeks
5	Demolition diagram and sequence	4	4 weeks

Prior to or during construction of railroad underpass structures, the UPRR requires the review of drawings, reports, test data and material data sheets to determine compliance with the specifications. Product information for items noted in Table 2 be submitted to UPRR's Designated Representative through the Agency for their own review and approval of the material. The signed submittal and the Agency's review comments will be reviewed by UPRR or their consultant. If a consultant performs the reviews, the consultant may reply directly to the Agency or its Designated Representative after consultation with UPRR. Review of the submittals will not be conducted until after review by the Agency or its Designated Representative. Review of the submittal items will require a minimum of four (4) weeks after receipt from the Agency.

TABLE 2

ITEM	DESCRIPTION	SETS REQD.	NOTES
1	Shop drawings	4	Steel and Concrete members
2	Bearings	4	For all structures
3	Concrete Mix Designs	4	For all structures
4	Rebar & Strand certifications	4	For superstructure only



5	28 day concrete strength	4	For superstructure only
6	Waterproofing material certifications and installation procedure	4	Waterproofing & protective boards
7	Structural steel certifications	4	All fracture critical members & other members requiring improved notch toughness
8	Fabrication and Test reports	4	All fracture critical members & other members requiring improved notch toughness
9	Welding Procedures and Welder Certification	4	AWS requirements
10	Foundation Construction Reports	4	Pile driving, drilled shaft construction, bearing pressure test reports for spread footings
11	Compaction testing reports for backfill at abutments	4	Must meet 95% maximum dry density, Modified Proctor ASTM D1557

D. As-Built Records shall be submitted to the UPRR within 60 days of completion of the structures. These records shall consist of the following items:

Overpass Projects

1. Electronic files of all structure design drawings with as-constructed modifications shown, in Microstation J or Acrobat .PDF format.
2. Hard copies of all structure design drawings with as-constructed modifications shown.
- 3.

Underpass Projects

1. Electronic files of all structure design drawings with as-constructed modifications shown, in Microstation SE or Acrobat .PDF format.
2. Hard copies of all structure design drawings with as-constructed modifications shown.
3. Final approved copies of shop drawings for concrete and steel members.
4. Foundation Construction Reports
5. Compaction testing reports for backfill at abutments

3.10 APPROVAL OF DETAILS

The details of the construction affecting the UPRR tracks and property not already included in the Contract Plans shall be submitted to UPRR's Designated Representative through the Agency for UPRR's review and written approval before such work is undertaken. Review and approval of these submittals will require a minimum of four (4) weeks in addition to the Agency's review time as stated elsewhere in these bid documents.

3.11 MAINTENANCE OF RAILROAD FACILITIES

A. The Contractor shall be required to maintain all ditches and drainage structures free of silt or other obstructions which may result from Contractor's operations; to promptly repair eroded areas within UPRR's right of way and to repair any other damage to the property of UPRR, or its tenants.

B. All such maintenance and repair of damages due to the Contractor's operations shall be done at the Contractor's expense.

C. The Contractor must submit a proposed method of erosion control and have the method reviewed by the UPRR prior to beginning any grading on the Project Site. Erosion control methods must comply with all applicable local, state and federal regulations.

3.12 SITE INSPECTIONS BY UPRR's DESIGNATED REPRESENTATIVE

A. In addition to the office reviews of construction submittals, site inspections may be performed by UPRR's Designated Representative at significant points during construction, including the following if applicable:

1. Pre-construction meetings.

2. Pile driving/drilling of caissons or drilled shafts.
3. Reinforcement and concrete placement for railroad bridge substructure and/or superstructure.
4. Erection of precast concrete or steel bridge superstructure.
5. Placement of waterproofing (prior to placing ballast on bridge deck).
6. Completion of the bridge structure.

B. Site inspection is not limited to the milestone events listed above. Site visits to check progress of the work may be performed at any time throughout the construction as deemed necessary by UPRR.

C. A detailed construction schedule, including the proposed temporary horizontal and vertical clearances and construction sequence for all work to be performed, shall be provided to the Agency for submittal to UPRR's Designated Representative for review prior to commencement of work. This schedule shall also include the anticipated dates when the above listed events will occur. This schedule shall be updated for the above listed events as necessary, but at least monthly so that site visits may be scheduled.

3.13 UPRR REPRESENTATIVES

A. UPRR representatives, conductors, flag person or watch person will be provided by UPRR at expense of the Agency or Contractor (as stated elsewhere in these bid documents) to protect UPRR facilities, property and movements of its trains or engines. In general, UPRR will furnish such personnel or other protective services as follows:

B. When any part of any equipment is standing or being operated within 25 feet, measured horizontally, from centerline of any track on which trains may operate, or when any object is off the ground and any dimension thereof could extend inside the 25 foot limit, or when any erection or construction activities are in progress within such limits, regardless of elevation above or below track.

C. For any excavation below elevation of track subgrade if, in the opinion of UPRR's Designated Representative, track or other UPRR facilities may be subject to settlement or movement.

D. During any clearing, grubbing, excavation or grading in proximity to UPRR facilities, which, in the opinion of UPRR's Designated Representative, may endanger UPRR facilities or operations.

E. During any contractor's operations when, in the opinion of UPRR's Designated Representative, UPRR facilities, including, but not limited to, tracks, buildings, signals, wire lines, or pipe lines, may be endangered.

F. The Contractor shall arrange with the UPRR Designated Representative to provide the adequate number of flag persons to accomplish the work.

3.14 WALKWAYS REQUIRED

Along the outer side of each exterior track of multiple operated track, and on each side of single operated track, an unobstructed continuous space suitable for trainman's use in walking along trains, extending to a line not less than twelve feet (12') from centerline of track, shall be maintained. Any temporary impediments to walkways and track drainage encroachments or obstructions allowed during work hours while UPRR's flagman service is provided shall be removed before the close of each work day. Walkways with railings shall be constructed by Contractor over open excavation areas when in close proximity of track, and railings shall not be closer than 8' – 6" horizontally from center line of tangent track or 9' – 6" horizontal from curved track.

3.15 COMMUNICATIONS AND SIGNAL LINES

If required, UPRR will rearrange its communications and signal lines, its grade crossing warning devices, train signals and tracks, and facilities that are in use and maintained by UPRR's forces in connection with its operation at expense of the Agency. This work by UPRR will be done by its own forces and it is not a part of the Work under this Contract.

3.16 TRAFFIC CONTROL

Contractor's operations that control traffic across or around UPRR facilities shall be coordinated with and approved by the UPRR's Designated Representative.



3.17 CONSTRUCTION EXCAVATIONS

A. The Contractor shall be required to take special precaution and care in connection with excavating and shoring. Excavations for construction of footings, piers, columns, walls or other facilities that require shoring shall comply with requirements of OSHA, AREMA and UPRR "Guidelines for Temporary Shoring".

B. The Contractor shall contact UPRR's "Call Before Your Dig" at least 48 hours prior to commencing work at 1-800-336-9193 during normal business hours (6:30 a.m. to 8:00 p.m. central time, Monday through Friday, except holidays - also a 24 hour, 7 day a week number for emergency calls) to determine location of fiber optics. If a telecommunications system is buried anywhere on or near UPRR property, the Contractor will co-ordinate with UPRR and the Telecommunication Company(ies) to arrange for relocation or other protection of the system prior to beginning any work on or near UPRR property.

3.18 RAILROAD FLAGGING

Performance of any work by the Contractor in which person(s) or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach within twenty-five (25) feet of any track, may require railroad flagging services or other protective measures. Contractor shall give the advance notice to the UPRR as required in the "Contractor's Right of Entry Agreement" before commencing any such work, so that the UPRR may determine the need for flagging or other protective measures to ensure the safety of the railroad's operations. Contractor shall comply with all other requirements regarding flagging services covered by the "Contractor's Right of Entry Agreement". Any costs associated with failure to abide by these requirements will be borne by the Contractor.

The estimated pay rate for each flag person is ~~\$700.00~~ per day for an 8 hour work day with time and one-half for overtime, Saturdays, Sundays; double time and one-half for holidays. Flagging rates are set by the UPRR and are subject to change.

3.19 CLEANING OF RIGHT-OF-WAY

Contractor shall, upon completion of the work to be performed by Contractor upon the premises, over or beneath the tracks of UPRR, promptly remove from the Right-of-Way of UPRR all of Contractor's tools, implements, and other materials whether brought upon the Right-of-Way by Contractor or any subcontractors, employee or agent of Contractor or of any subcontractor, and leave the Right-of-Way in a clean and presentable condition to satisfaction of UPRR.



EXHIBIT D

To Existing Public Road Crossing Overpass Agreement

Cover Sheet for the Contractor's Right of Entry Agreement
(See Article 4b)



March 18, 2005

UPRR Folder No. 2308-74

To the Contractor:

Before Union Pacific Railroad can permit you to perform work on its property for the reconstruction and widening of the existing Mountain View Avenue Overpass grade separation crossing, it will be necessary to complete two originals of the enclosed Right of Entry Agreement as follows:

1. Fill in the complete legal name of the contractor in the space provided on Page 1 of the Contractor's Right of Entry Agreement. If a corporation, give the state of incorporation. If a partnership, give the names of all partners.
2. Fill in the date construction will begin and be completed in Article 5, Paragraph A.
3. Fill in the name of the contractor in the space provided in the signature block at the end of the Contractor's Right of Entry Agreement. If the contractor is a corporation, the person signing on its behalf must be an elected corporate officer.
4. Return all copies of the Contractor's Right of Entry Agreement together with your Certificate of Insurance as required in Exhibit B-1, in the attached, self-addressed envelope.
5. Check made payable to the Union Pacific Railroad Company in the amount of **\$500.00**. If you require formal billing, you may consider this letter as a formal bill. In compliance with the Internal Revenue Services' new policy regarding their Form 1099, I certify that 94-6001323 is the Railroad Company's correct Federal Taxpayer Identification Number and that Union Pacific Railroad Company is doing business as a corporation.

After approval of the Right of Entry Agreement and insurance certificate, one fully executed counterpart of the agreement will be returned to you. In no event should you begin work until you have received your counterpart of the fully executed agreement.

Under Exhibit C of the enclosed Contractor's Right of Entry, you are required to procure Railroad Protective Liability Insurance (RPLI) for the duration of this project. As a service to you, Union Pacific is making this coverage available to you. If you decide that acquiring this coverage from the Railroad is of benefit to you, please contact Ms. Nancy Savage at (402) 544-2215.

If you have any questions concerning the agreement, please contact me at. Have a safe day!

Sincerely,

PAUL G. FARRELL

Senior Manager Contracts

Phone: (402) 544-8620

e-mail: pgfarrell@up.com

UNION PACIFIC RAILROAD
1400 Douglas Street, Stop 1690
Omaha, Nebraska 68179-1690
fx. (402) 501-0340

To Existing Public Road Crossing Overpass Agreement

Exhibit D



CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT is made and entered into as of the _____ day of _____, 200____, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation (the "Railroad"); and

(Name of Contractor)

a _____ corporation (the "Contractor").
(State of Incorporation)

RECITALS:

Contractor has been hired by the *City of Loma Linda* to perform work relating to the reconstruction and widening of the existing Mountain View Avenue Overpass grade separation crossing (the "work"), with all or a portion of such work to be performed on property of Railroad in the vicinity of Railroad's 543.60 on its Yuma Subdivision in or near Loma Linda, San Bernardino

County, California, which work is the subject of a contract dated _____ between Railroad and the City of Loma Linda.
(Date of C&M Agreement)

Contractor has requested Railroad to permit it to perform the work on the portion of Railroad's property shown on the print marked **Exhibit A**, attached hereto and hereby made a part hereof, and Railroad is agreeable thereto, subject to the following terms and conditions.

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the Railroad and Contractor, as follows:

ARTICLE 1 - DEFINITION OF CONTRACTOR.

For purposes of this agreement, all references in this agreement to the Contractor shall include the Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

ARTICLE 2 - RIGHT GRANTED; PURPOSE.

The Railroad hereby grants to the Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of

performing any work described in the Recitals above. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad Representative named in Article 4.

ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS A, B, C & D.

The terms and conditions contained in **Exhibit A, Exhibit B, Exhibit C and Exhibit D**, attached hereto, are hereby made a part of this agreement.

ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.

A. The Contractor shall bear any and all costs and expenses associated with any work performed by the Contractor, or any costs or expenses incurred by the Railroad relating to this agreement.

B. The Contractor shall coordinate all of its work with the following Railroad representative or his or her duly authorized representative (the "Railroad Representative"):

Richard A. Clark
Manager Track Maintenance
Union Pacific Railroad Company
45050 Pacific Street
Indio, CA 92201
Phone: (909) 879-6154
FAX: (909) 879-6156
Cell: 760-485-0876

C. The Contractor, at its own expense, shall adequately police and supervise all work to be performed by the Contractor and shall ensure that such work is performed in a safe manner as set forth in Section 7 of **Exhibit B**. The responsibility of the Contractor for safe conduct and adequate policing and supervision of the Contractor's work shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications involving the work, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad Representative, or by compliance by the Contractor with any requests or recommendations made by the Railroad Representative.

ARTICLE 5 - TERM; TERMINATION.

A. The grant of right herein made to Contractor shall commence on the date of this agreement, and continue until _____, unless sooner terminated as herein provided,
(*Expiration Date*)
or at such time as Contractor has completed its work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad property.



B. This agreement may be terminated by either party on ten (10) days written notice to the other party.

ARTICLE 6 - CERTIFICATE OF INSURANCE.

A. Before commencing any work, Contractor will provide Railroad with the insurance binders, policies, certificates and/or endorsements set forth in **Exhibit C** of this agreement.

B. All insurance correspondence, binders, policies, certificates and/or endorsements shall be directed to:

Union Pacific Railroad Company
1400 Douglas Street MS1690
Omaha, NE 68179-1690
Attn.: Senior Manager Contracts
UPRR Folder No.: 2308-74

ARTICLE 7 - DISMISSAL OF CONTRACTOR/SUBCONTRACTOR EMPLOYEE.

At the request of Railroad, Contractor shall remove from Railroad property any employee of Contractor or any subcontractor who fails to conform to the instructions of the Railroad Representative in connection with the work on Railroad's property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad property.

ARTICLE 8 - ADMINISTRATIVE FEE.

Contractor shall pay to Railroad **FIVE HUNDRED DOLLARS (\$500.00)** as reimbursement for clerical, administrative and handling expenses in connection with the processing of this agreement.

ARTICLE 9 - CROSSINGS.

No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Contractor without the prior written permission of Railroad.

ARTICLE 10 - EXPLOSIVES.

Explosives or other highly flammable substances shall not be stored on Railroad property without the prior written approval of the Railroad.



IN WITNESS WHEREOF, the parties hereto have duly executed this agreement in duplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY
(Federal Tax ID # 94-6001323)

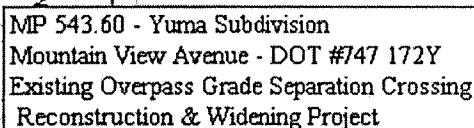
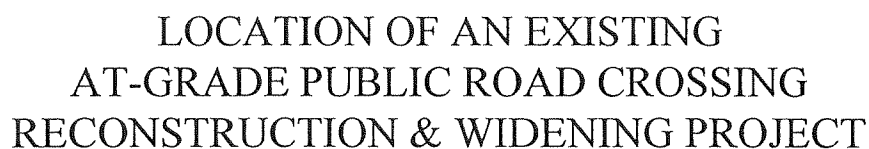
By: _____
PAUL G. FARRELL
Senior Manager Contracts

WITNESS:

(Name of Contractor)

By: _____

Title: _____



- ### 1. Flagging.

EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY

YUMA SUBDIVISION

MILE POST 543.60

GPS: N 34° 03.170', W 117° 14.621'

LOMA LINDA, SAN BERNARDINO CO., CA.

To accompany a Contractor's Right of Entry Agreement with the
CITY OF LOMA LINDA
 covering the reconstruction and widening of an existing overpass grade
 separation public road crossing

Folder No. 2308-74

Date: March 18, 2005

WARNING

IN ALL OCCASIONS, U.P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE. PHONE: 1-(800) 336-9193

EXHIBIT B

TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

TERMS AND CONDITIONS

Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.

A. The Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least ten (10) working days in advance of proposed performance of any work by the Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such ten (10)-day notice, the Railroad Representative will determine and inform the Contractor whether a flagman need be present and whether the Contractor need implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by the Railroad, such services will be provided at Contractor's expense with the understanding that if the Railroad provides any flagging or other services, the Contractor shall not be relieved of any of its responsibilities or liabilities set forth herein. Contractor shall promptly pay to Railroad all charges connected with such services within thirty (30) days after presentation of a bill.

B. The rate of pay per hour for each man will be the prevailing hourly rate in effect for an eight hour day for the class of men used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect on the day of execution of this agreement. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays; two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between the Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized Governmental Agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, the Contractor shall pay on the basis of the new rates and charges.

C. Reimbursement to the Railroad will be required covering the full eight hour day during which any flagman is furnished, unless he can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by said flagman following his assignment to work on the project for which the Railroad is required to pay the flagman and which could not reasonably be avoided by the Railroad by assignment of such flagman to other work, even though the Contractor may not be working during such time. When it becomes necessary for the Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, the Contractor must provide the Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5)-days notice of cessation is not given, the Contractor will still be required to pay flagging charges for the five (5)-day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional ten (10) days notice must then be given to the Railroad if flagging service are needed again after such five day cessation notice has been given Railroad.

Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of the Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by the Railroad without liability to the Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of the Railroad's property, and others) and the right of the Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.

A. The Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of the Railroad, including without limitation, the operations of the Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done



by the Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least fifty (50) feet from the centerline of the Railroad's nearest track, and there shall be no vehicular crossings of Railroad's tracks except at existing open public crossings.

B. Operations of the Railroad and work performed by the Railroad personnel and delays in the work to be performed by the Contractor caused by such railroad operations and work are expected by the Contractor, and Contractor agrees that the Railroad shall have no liability to Contractor, its subcontractors or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of the Railroad and third parties so as to avoid interference with railroad operations. The safe operation of the Railroad takes precedence over any work to be performed by the Contractor.

Section 4. LIENS.

The Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. The Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of the Railroad for any such work performed. The Contractor shall indemnify and hold harmless the Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If the Contractor fails to promptly cause any lien to be released of record, the Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

A. Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone the Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. The Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

B. In addition to other indemnity provisions in this Agreement, the Contractor shall indemnify, defend and hold the Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of the Contractor, its contractor, agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

Section 6. PERMITS - COMPLIANCE WITH LAWS.

In the prosecution of the work covered by this agreement, the Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

Section 7. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by the Contractor. The Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. The Contractor shall at a minimum comply with the Railroad's safety standards listed in **Exhibit D**, hereto attached, to ensure uniformity with the safety standards followed by the Railroad's own forces. As a part of the Contractor's safety responsibilities, the Contractor shall notify the Railroad if the Contractor determines that any of the Railroad's safety standards are contrary to good safety practices. The Contractor shall furnish copies of **Exhibit D** to each of its employees before they enter on the job site.

B. Without limitation of the provisions of paragraph A above, the Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. The Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. The Contractor shall promptly notify the Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. The Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of the Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.



D. If and when requested by the Railroad, the Contractor shall deliver to the Railroad a copy of the Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require the Contractor to correct any deficiencies in the Safety Plan. The terms of this agreement shall control if there are any inconsistencies between this agreement and the Safety Plan.

Section 8. INDEMNITY.

A. To the extent not prohibited by applicable statute, the Contractor shall indemnify, defend and hold harmless the Railroad, its affiliates, and its and their officers, agents and employees ("Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, the Contractor, or any employee of the Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by the Contractor, or (ii) any act or omission of the Contractor, its officers, agents or employees, or (iii) any breach of this agreement by the Contractor.

B. The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

C. The Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by the Contractor's own employees. The Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify the Railroad under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.

D. No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this agreement may be relied upon or used by the Contractor in any attempt to assert liability against the Railroad.

E. The provisions of this Section 8 shall survive the completion of any work performed by the Contractor or the termination or expiration of this agreement. In no event shall this Section 8 or any other provision of this agreement be deemed to limit any liability the Contractor may have to any Indemnified Party by statute or under common law.

Section 9. RESTORATION OF PROPERTY.

In the event the Railroad authorizes the Contractor to take down any fence of the Railroad or in any manner move or disturb any of the other property of the Railroad in connection with the work to be performed by Contractor, then in that event the Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. The Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

Section 10. WAIVER OF DEFAULT.

Waiver by the Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by the Contractor shall in no way impair the right of the Railroad to avail itself of any remedy for any subsequent breach or default.

Section 11. MODIFICATION - ENTIRE AGREEMENT.

No modification of this agreement shall be effective unless made in writing and signed by the Contractor and the Railroad. This agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between the Contractor and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by the Contractor.

Section 12. ASSIGNMENT - SUBCONTRACTING.

The Contractor shall not assign or subcontract this agreement, or any interest therein, without the written consent of the Railroad. The Contractor shall be responsible for the acts and omissions of all subcontractors, and shall require all subcontractors to maintain the insurance coverage required to be maintained by the Contractor as provided in this agreement, and to indemnify the Contractor and the Railroad to the same extent as the Railroad is indemnified by the Contractor under this agreement.

**EXHIBIT C****TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT****INSURANCE PROVISIONS**

Contractor shall, at its sole cost and expense, procure and maintain during the course of the Project and until all Project work on Railroad's property has been completed and the Contractor has removed all equipment and materials from the Railroad's property and has cleaned and restored Railroad's property to Railroad's satisfaction, the following insurance coverage:

A. Commercial General Liability Insurance. This insurance shall contain a single limit of at least \$5,000,000 each occurrence or claim and an aggregate limit of at least \$10,000,000 and include broad form contractual liability coverage. Coverage must be purchased on a post 1998 ISO or equivalent form, including but not limited to coverage for the following:

- Bodily injury including death and personal injury
- Property damage
- Fire legal liability (Not less than the replacement value of the portion of the premises occupied)
- Products and completed operations

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- The workers compensation and employee related exclusions in the above policy apply only to employees of the Contractor
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.
- Coverage for Contractor's (and Railroad's) employees shall not be excluded
- Waiver of subrogation

If the Contractor will be using, storing and/or handling hazardous materials, the Contractor, in addition to the other endorsements to be obtained by the Contractor as provided in this exhibit, must also ensure that the Commercial General Liability Insurance policy contains a Designated Premises Pollution Coverage (CG00-39) endorsement. Evidence of the endorsement must also be indicated on the certificate of insurance that is provided to the Railroad.

B. Business Automobile Coverage Insurance. This insurance shall contain a combined single limit of at least \$5,000,000 per occurrence or claim, including but not limited to coverage for the following:

- Bodily injury and property damage
- Any and all motor vehicles including owned, hired and non-owned

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- The workers compensation and employee related exclusions in the above policy apply only to employees of the Contractor
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed
- Motor Carrier Act Endorsement- Hazardous materials clean up (MCS-90) if required by law

C. Workers Compensation and Employers Liability Insurance including but not limited to:

- Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement
- Employers' Liability (Part B) with limits of at least
\$500,000 each accident, \$500,000 disease policy limit
\$500,000 each employee

If Workers Compensation insurance will not cover the liability of Contractor in states that require participation in state workers' compensation fund, Contractor shall comply with the laws of such states. If Contractor is self-insured, evidence of state approval



must be provided along with evidence of excess workers compensation coverage. Coverage shall include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy shall also contain the following endorsement **which shall be indicated on the certificate of insurance**:

- Alternate Employer Endorsement

D. Umbrella or Excess Policies In the event Contractor utilizes Umbrella or excess policies, these policies shall "follow form" and afford no less coverage than the primary policy.

E. Railroad Protective Liability Insurance naming only the Railroad as the insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The policy shall be broad form coverage for "Physical Damage to Property" (ISO Form CG 00 35 07 98 or equivalent). A binder stating the policy is in place must be submitted to the Railroad until the original policy is forwarded to the Railroad.

Other Requirements

F. Punitive damage exclusion must be deleted, **which deletion shall be indicated on the certificate of insurance.**

G. Contractor waives its right of recovery, and shall cause its insurers, through policy endorsement, to waive their right of subrogation against Railroad including, without limitation, for loss of Contractor's owned or leased property or property under Contractor's care, custody and control. Contractor's insurance shall be primary with respect to any insurance carried by Railroad. All waivers of subrogation **shall be indicated on the certificate of insurance.**

H. All Policy(ies) required above (excluding Workers Compensation) shall provide severability of interests and shall name Railroad as an additional insured. The coverage provided to Railroad as additional insured shall provide coverage for Railroad's negligence whether sole or partial, active or passive, and shall not be limited by Contractor's liability under the indemnity provisions of this Agreement. **Severability of interest and naming Railroad as additional insured shall be indicated on the certificate of insurance.**

I. Prior to commencing any work, Contractor shall furnish to Railroad original certificate(s) of insurance evidencing the required coverage, endorsements, and amendments. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railroad in writing of any cancellation or material alteration. **Upon request from Railroad, a certified duplicate original of any required policy shall be furnished.**

J. Any insurance policy shall be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

K. Contractor **WARRANTS** that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement and acknowledges that Contractor's insurance coverage will be primary.

L. The fact that insurance is obtained by Contractor or Railroad on behalf of Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad shall not be limited by the amount of the required insurance coverage.



EXHIBIT D

TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

MINIMUM SAFETY REQUIREMENTS

The term "employees" as used herein refer to all employees of the Contractor as well as all employees of any subcontractor or agent of the Contractor.

I. Clothing

A. All employees of the Contractor will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, the Contractor's employees must wear:

- (i) Waist-length shirts with sleeves.
- (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
- (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.

B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.

C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

II. Personal Protective Equipment

The Contractor shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with the contractor's or subcontractor's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:

- 100 feet of a locomotive or roadway/work equipment
- 15 feet of power operated tools
- 150 feet of jet blowers or pile drivers
- 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)

(iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

III. On Track Safety

The Contractor is responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized workwear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Contractors must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track.



The Contractors will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

IV. Equipment

A. It is the responsibility of the Contractor to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of the Contractor's equipment is unsafe for use, the Contractor shall remove such equipment from the Railroad's property. In addition, the Contractor must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:

- Familiar and comply with Railroad's rules on lockout/tagout of equipment.
- Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.
- Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other railbound equipment.

B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.

C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.

D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

V. General Safety Requirements

A. The Contractor shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.

B. The Contractor shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as conditions, work procedures, or personnel change.

C. All track work performed by the Contractor meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.

D. All employees comply with the following safety procedures when working around any railroad track:

- (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
- (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
- (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment if the opening is less than one car length (50 feet).
- (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
- (v) Before stepping over or crossing tracks, look in both directions first.
- (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.

E. All employees must comply with all federal and state regulations concerning workplace safety.